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A

COLLECTION

OF

MODERN ENTRIES:

OR,

SELECT PLEADINGS

IN

The Courts of KING'S BENCH, COMMON PLEAS and
EXCHEQUER, viz.

Declarations, Pleas in Abatement and in Bar, Replications, Rejoinders, &c.
Demurrers, Issues, Verdicts, Judgments, Forms of making up Records
of *Nisi prius*, and Entering of Judgments, &c. in most Actions. Many
of them drawn or perused by Mr. BRODERICK, CARTHEW, COMYNS,
DARNEL, HOLT, LEVINZ, LUTWYCHE, NORTHEY, PARKER,
PEMBERTON, PENGELLY, POLLEXFEN, RAYMOND, SALKELD,
SAUNDERS, SHOWER, THOMSON, TREVOR, VENTRIS, WEARGE,
and other learned Counsel.

AS ALSO

Special Assignments of ERRORS, and Writs and Proceedings thereupon,
both in the said Courts and in Parliament.

WITH

The Method of suing to and reversing OUTLAWRIES by WRIT
of ERROR or otherwise.

To which is added

A COLLECTION of WRITS in most CASES now in Practice.

With Two TABLES, one of the NAMES of the CASES, and the
other of the PLEADINGS and WRITS.

By JOHN LILLY, Gent. late Principal of *Clifford's Inn*.

The Third Edition, carefully Translated into ENGLISH, with many
ADDITIONAL REFERENCES.

In the SAVOY:

Printed by HENRY LINTOT, Law-Printer to the King's Most Excellent Majesty;
for D. Browne without Temple-Bar; C. Osborne in Grays-Inn; J. Worrell
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THE
P R E F A C E
TO THE
FIRST EDITION.

‘ **T**HE greatest Part of the following Collection of Precedents,
‘ as also the Writs, were intended by Mr. LILLY, late
‘ Principal of *Clifford's Inn*, in his Life-time to have been
‘ published (he being concern'd in most of the Causes, whereof the
‘ Entries and Precedents are here collected.) The Addition since
‘ his Time is done by a careful and judicious Hand; they are truly
‘ Modern, being drawn and used in the Reigns of King *William* and
‘ Queen *Mary*, Queen *Anne*, and many of them in his present
‘ Majesty's Reign, and drawn by the most eminent Men in those
‘ Reigns, many of whom are now living.

‘ In this Collection particular Care has been taken to examine
‘ them with their Originals, and to give an Account what was the
‘ Consequence of the Pleadings. Herein are added proper Re-
‘ ferences to Books, that treat of the Practick Part of the Law,
‘ which will render them yet more useful.

‘ As

The P R E F A C E.

‘ As the Practice of prosecuting Writs of Error is now become
‘ so frequent, here is a particular Collection of most of the Assign-
‘ ments, Pleadings and Issues therein, not only in the King’s Bench
‘ and Exchequer, but of Writs of Error out of *Ireland*, and in
‘ Parliament; also the *Scire facias ad Satisfaciendum* on a Bond
‘ made to the King, and *Scire facias* to repeal Patents granted by
‘ the Crown; with many other useful Matters. The Design of
‘ this Collection is for the Benefit of all Students and Practitioners;
‘ if it has that Effect, the End of the Publication is attained.’

It may not be improper to add, That the Translation of
the Precedents in this Edition are done with the greatest Care and
Exactness; also many new References are added, and other useful
Remarks.

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Abatement.

Abatement.

Arkell at the suit of Humpbry.

AND upon this *Robert Arkell*, by *John Lilly* his attorney, comes and defends the force and injury, &c. And prays judgment of the bill aforesaid, because he says, that he is the same person against whom the said *Thomas Humpbry* hath exhibited the bill aforesaid by the name of *Robert Arkell*, and that he is named and called by the name of *Robert Arkell*, and by the same name from the time of his birth always was called and known; without that, that he is called by the name of *Robert Arkell*, or by the same name was called and known: And this he is ready to verify; Wherefore he prays judgment of the bill aforesaid, and that that bill may be quashed.

Miscomer in the surname.
Pract. Reg. 5.
4 Mod. 347.
10 Co. 123.
21 Co. 21.
Salk. 18.

By the Statute 4 Annæ, no dilatory plea shall be received in any court of record, unless the party offering the same doth by affidavit prove the truth thereof, or shew some probable matter to the court to induce them to believe that the fact of such dilatory plea is true, which has occasioned the framing this affidavit:

In the King's Bench

Between

A. B. the defendant in this cause, maketh oath, that the substance and matter of fact in the plea hereunto annexed is true.

The form of an affidavit in all cases where a plea is in abatement.

Raper at the suit of Swaine.

AND the said *Edward*, by *T. S.* his attorney, comes and defends the force and injury, &c. and says, that the said *Edward* to his bill aforesaid ought not to be answered, because he says that the said *Edward* is an alien born at *Callis* in the kingdom of *France* in parts beyond the seas, under the legiance of *Lewis the French King* an enemy of the now Lord the King of *England*, born of father and mother enemies of the Lord the King of *England*, and to his same enemy adhering, and came into the kingdom of *England* without the safe conduct of the said Lord the King: And this he is ready to verify: Where he prays judgment if the said *Edward* to his bill aforesaid ought to be answered, &c.

Will. Hall.

Brackley and Stanton.

AND the said *Sarah* in her proper person comes and prays judgment of the bill of the said *William* aforesaid, because she says, that she the same *Sarah* at the Time of the exhibition of the bill of the said *William* against the said *Sarah* was covert with one *John West* then and yet her husband, and living, to wit, at *Islington* aforesaid in the county aforesaid: And this the same *Sarah* is ready to verify: Wherefore because the said *John West* is not named in the bill aforesaid, the same *Sarah* prays judgment of the bill aforesaid, and that that bill may be quashed.

And the said plaintiff says, that by any thing by the said *Sarah* above by pleading alledged, the said bill of him the said *William* now filed ought not to be quashed, because he says that the said *Sarah* at the said time of the exhibition of the bill aforesaid, to wit, 23d day of *October*

Plea.
Coverture.
Pract. Reg. 8.
Salk. 7. 8.
6 Mod. 230.

Replication.

Traverse. In the tenth year of the reign of the said now Lord the King, to wit, at *Islington* aforesaid in the county aforesaid, was sole; without that, that the said *Sarah*, at the said time of the exhibition of the bill aforesaid of the plaintiff aforesaid, or ever after, was covert of the said *J. W.* her husband, in manner and form as the same *Sarah* above by pleading hath alledged: And this he is ready to verify: Wherefore he prays judgment and his debt aforesaid, together with his damages by reason of the detention of that debt to be adjudged to him, &c.

Rejoinder. And the said *Sarah* as before says, that she the same *Sarah* at the said time of the exhibition of the said bill was covert of the said *J. W.* her husband, in manner and form as the same *Sarah* above by pleading hath alledged: And of this she puts herself on the country: And the said plaintiff likewise, &c. Therefore let a jury thereof come, &c.

Issue.

Levett and The college of physicians, London.

Misnomer of addition of the degree.
4 Mod. 47.

AND the said *Henry Levett*, by *R. S.* his attorney, comes and prays judgment of the bill aforesaid, because he says, that he the said *Henry*, long before the exhibition of the bill aforesaid, as also the same day of the exhibition thereof, was and yet is a Doctor of physick in due manner made by the university of *Oxford*, to wit, at *London* aforesaid, in the parish and ward aforesaid: Wherefore for that the same *Henry* is not named Doctor of physick in the bill aforesaid, he prays judgment of the said bill, and that that bill may be quashed, &c.

Abatement.
That defendant sealed the bond jointly with *E. F.* and *G. H.* who are not sued.

AND the said *T. C.* by *John Lilly* his attorney, comes and defends the force and injury, &c. and prays oyer of the writing obligatory aforesaid, and it is read to him in these words, to wit, Know all men by these presents, &c. which being read and heard, the same *T. C.* prays judgment of the declaration aforesaid, because he says that at the said time of the sealing and delivery of the writing obligatory aforesaid, whereon the said plaintiff against him the defendant complains, to wit, on the said third day of *May* in the eleventh year of the reign, &c. in the declaration aforesaid abovementioned, at *Lewis* aforesaid in the county aforesaid, the said *E. F.* and *G. H.* in the writing obligatory aforesaid named did likewise seal and deliver the writing obligatory aforesaid as the act and deed of them the said *E. F.* and *G. H.* to the said plaintiff, and became firmly bound to the said plaintiff jointly with the said defendant by the same writing obligatory in the said 100 *l.* which said *E. F.* and *G. H.* are yet surviving and living, to wit, at *Lewis* aforesaid in the county aforesaid: And this he is ready to verify: Wherefore for that the said *E. F.* and *G. H.* are not named defendants together with the said defendant in the declaration aforesaid mentioned, the same defendant prays judgment of the declaration aforesaid, and that that declaration may be quashed, &c.

Moller and Isted.

Another action pending in the same court.
Salk 715.
Pract. Reg. 7.
5 Co. 61.
Salk. 8.

AND the said *Thomas*, in his proper person, comes and defends the force and injury, &c. and prays judgment of the bill aforesaid, because he says, that he the same *John* in the court of the said Lady the Queen now here otherwise, to wit, in *Easter* term last past brought his writ against the said *Thomas* in the plea aforesaid; and thereupon the same *John* declaring against him the said *Thomas* by the name of *Thomas Isted* late of *London*, Gent. then and there appearing at the suit of the said *John* in the said plea complained, That whereas the said *John Moller* the first day of *April* in the year of our Lord 1701, at *London*, in the parish of *St. Mary-le-bow* in the ward of *Cheape*, was possessed of divers goods and chattels, to wit, of two butts of spirits of wine called *Brandy*, to the value of 150 *l.* as of his proper goods and chattels, and so thereof being possessed the goods and chattels aforesaid out of his hands and possession casually lost, which said goods and chattels afterwards, to wit, the same first day of *April* in the year of the Lord 1701 aforesaid, at *London* aforesaid, in the parish and ward aforesaid, to the hands and possession of the said *Thomas* by finding came; nevertheless the said *Thomas* knowing the goods and chattels aforesaid to be the proper goods and chattels of the said *John Moller*, and to him the said *John Moller* of right to belong and appertain, but contriving and fraudulently intending him the said *John Moller* of those goods and chattels craftily and subtly to deceive and defraud, the goods and chattels aforesaid, altho' often requested, to the said *John Moller* had not delivered, but the goods and chattels aforesaid afterwards, to wit, 10th day of *November* in the year of our Lord 1701 aforesaid, at *London* aforesaid in the parish and ward aforesaid, to his own proper Use converted and disposed, to the damage of the said *John Moller* 120 *l.* And therefore he then produced the suit, &c. And the said *Thomas Isted* by *A. B.* his attorney came and defended the force and injury, when, &c. and then prayed licence of imparling thereto here until in the morrow of the holy *Trinity* then next following; and had it, &c. The same day was then given to the said *John Moller* here, &c. as by the record in court here remaining more fully appears, which said plaint or plea upon the writ aforesaid, in form aforesaid obtained in the said court of the said Lady the Queen now here, to wit, at *Westminster* aforesaid, yet depends indiscussed, undetermined

mined and not discontinued. And the said *Thomas* farther says, that the said *John Moller* in the said former declaration and plea named, and the said *John Moller* in the said bill against him the said *Thomas* *Isted* now exhibited, are one and the same person, and not another nor divers; and that the said *Thomas* *Isted* in the said former declaration and plea named, and the said *Thomas* *Isted* in the said bill against him the said *Thomas* *Isted* exhibited, are one and the same person, and not another nor divers. And the said *Thomas* *Isted* farther says, that the goods and chattels in the declaration and plea aforesaid first mentioned, and the goods and chattels aforesaid, in the bill aforesaid now exhibited against him the said *Thomas* mentioned, are one and the same goods and chattels, and not other nor divers: And this he is ready to verify: Wherefore he prays judgment of the bill aforesaid, in form aforesaid exhibited, (the said former plea and declaration as aforesaid yet in court here depending indiscussed and undetermined,) and that that bill may be quashed, &c.

Carter at the suit of Bennet.

AND the said *Anne*, who is under the age of 21 years, by R. C. her guardian by the court of the Lady the Queen now here specially admitted, comes and defends the force and injury, &c. and prays judgment of the bill aforesaid, because she says, that the said *Anne* the day of the exhibition of the bill aforesaid was and yet is under the age of 21 years, to wit, of the age of 19 years and no more, to wit, at *London* aforesaid in the parish and ward aforesaid, and that the said *Hannab* prosecutes her bill aforesaid against the said *Anne* neither by her next friend nor by her guardian: And this she is ready to verify: Wherefore she prays judgment of the bill aforesaid, and that that bill may be quashed, &c.

Infancy
pleaded by
guardian.
Pract. Reg.
51, 65j.

Scawen and Garret.

AND the said *John* in his proper person comes and says, that he is, and the day of the exhibition of the bill of the said *Thomas* aforesaid, and for divers years before, was an attorney of the court of the Lady the Queen of the Common Bench in his said office at *Westminster* in the county of *Middlesex*, attending divers affairs of many of the liege people of the said Lady the Queen in that Bench prosecuting and defending as their attorney; and that the same *John*, and all other attorneys of that Bench, while they so any business prosecute or defend, according to the custom in the same court of Bench at *Westminster* hitherto used and approved, should not nor ought to be drawn or compelled, nor at any time past have been accustomed to be drawn or compelled against their will, to answer before any justices or ministers of the Lady the Queen, or other judges secular whatsoever, except before the justices of the said Lady the Queen of the Common Bench at *Westminster*, on any pleas, complaints or demands which do not touch the person of the Lady the Queen; (plea of freeholds, felonies and appeals, only excepted): And this he is ready to verify: Wherefore he doth not intend that the court of the Lady the Queen here the plea aforesaid against him will or ought to determine.

2 Salk. 545.
Plea to the
jurisdiction of
the court.
That the de-
fendant is an
attorney of
the Common
Pleas.
1 Lev. 54.
Pract. Reg. 4,
5, 7.
Salk. 1, 2, 4,
8, 30.

St. John Broderick.

Frampton and Nourse.

AND the said *Charles Frampton*, by J. L. his attorney, comes and prays judgment of the writ of *scire facias* aforesaid, because he says, that after the rendition of the judgment aforesaid in the writ aforesaid above specified, to wit, 16 Day of *November* in the sixth year of the reign of the Lord *William* the Third now King, and the Lady *Mary* late Queen of *England*, &c. at *Westminster* aforesaid in the county of *Middlesex* aforesaid, he the said *Charles Frampton*, for the revocation of the judgment aforesaid prosecuted out of the court of the said Lord the King and the Lady late Queen of Chancery, then held at *Westminster* aforesaid in the said county of *Middlesex*, a certain writ of the said Lord the King and the Lady the late Queen, to correct error of and upon the judgment aforesaid in the said writ specified, directed to *John Holt*, Kt. chief justice of the said Lord the King and the Lady the late Queen, assigned to hold pleas in the court of the Lord the King and the Lady the late Queen, before them the Lord the King and the Lady the late Queen, and returnable *Tuesday* 27th day of the instant month of *November* then next following, in the court of the chamber of the Exchequer of the said Lord the King and the Lady the late Queen at *Westminster*, before the justices of the said Lord the King and the Lady the late Queen of the Bench, and the barons of the Exchequer of the same King and Queen of the degree of the coif, according to the form of the statute in such case made and provided; which said writ after the issuing and before the return thereof, to wit, 20th day of *November* in the sixth year of the reign of the King and Queen above said, at *Westminster* aforesaid in the said county of *Middlesex*, to the said *John Holt* chief justice aforesaid in due form of law was delivered in form of law to be executed; which said *John Holt*, chief justice aforesaid, the said writ to correct error aforesaid into the said chamber of Exchequer as yet hath not returned, and

A writ of
error pending
in the Exche-
quer Chamber
pleaded to a
sci fac quare
execut' non on
the judgment.
Pract. Reg.
5, 6.

27 El. c. 8.

and nothing therein done: And this he is ready to verify: Wherefore he prays judgment if he the said *Charles* ought to be compelled to answer to the said writ of *scire facias* of the said *Charles Nourse*, pending the said writ of error undetermined, &c.

Hoare and Clarke.

Midd., to wit. **J**OSEPH Clarke complains of *John Hoare* in the custody of *Robert Davies*, Bart. high steward of the liberty of *St. Edmonds Bury* in the county aforesaid, in a plea that he render to him 100*l.* (so declares in debt upon a judgment): And therefore he produces the suit, &c.

Plea: misprision of the county.

And the said *John*, by *John Allen* his attorney, comes and defends the force and injury, and says that the liberty of *St. Edmonds Bury* is, and from time immemorial was, in the county of *Suffolk*, and not in the county of *Middlesex*, as by the bill of the said *Joseph Clarke* above is supposed: And this he is ready to verify: Wherefore he prays judgment if the said *John Hoare* ought to answer to the bill of the said *Joseph Clarke*, &c.

Affidavit according to 4 Ann.

L. S. Gent. maketh oath, that the liberty of St. Edmonds Bury, as this deponent is credibly informed and verily believes, is in the county of Suffolk, and not in the county of Middlesex, as the plaintiff by the declaration bereunto annexed hath alledged.

L. S.

Gardner and his wife and Pickering.

Plea, that the marriage was not solemnized according to the usage of the church of England. Salk. 8.

AND the said *Michael* and *Elizabeth*, by *A. F.* their attorney, come and defend the force and injury, and pray judgment of the said writ of the said *Margaret*, because they say that the day of the imputation of the said writ original of the said *Margaret*, to wit, 23 *January* in the 10th year of the reign of the now Lady the Queen, the marriage between the said *Michael* and *Elizabeth* was not solemnized according to the ecclesiastical law of this kingdom of *Great Britain*: And this they are ready to verify: Wherefore they pray judgment of that writ, and that that writ may be quashed, &c.

T. Pengelly.

The company of Stationers and Tooke.

Misnomer in the title of the corporation. Salk. 8. Pract. Reg. 199.

AND the said *Benjamin* by *N. H.* his attorney comes, and the same *Benjamin* defends the force and injury, &c. and prays judgment of the bill aforesaid, because he says that the said plaintiffs are named and called The master and keepers, or wardens and commonalty of the mystery or art of stationers of the city of *London*, and by the same name and title were always named and called; without that, that they are named or called The master and keepers, or wardens and commonalty of the mystery and art of stationers of the city of *London*, as by the bill above is supposed: And this he is ready to verify: Wherefore he prays judgment of the bill aforesaid, and that that bill may be quashed, &c.

Demurrer. (a) The original is [free].

And the said master and keepers, or wardens and commonalty of the mystery (a) or art of stationers of the city of *London* say, that by any thing by the said *Benjamin* above by pleading alledged, the bill of the said master and keepers, or wardens and commonalty of the mystery (a) or art of stationers of the city of *London*, ought not to be quashed, because they say, that the plea aforesaid by the said *Benjamin* in manner and form aforesaid above pleaded, and the matter in the same contained, are not sufficient in law to quash the bill of the said master and keepers, or wardens and commonalty of the mystery or art of stationers of the city of *London*, to which said plea they the same master and keepers, or wardens and commonalty of the mystery (a) or art of stationers of the city of *London*, have no necessity, nor are by the law of the land bound any way to answer: And this they are ready to verify: Wherefore for want of a sufficient answer in this behalf, they the same master and keepers, or wardens and commonalty of the mystery (a) or art of stationers of the city of *London* pray judgment, and that the bill aforesaid of the said master and keepers, or wardens and commonalty of the mystery (a) or art of stationers of the city of *London*, may be adjudged as good, and that the said *Benjamin* to that bill may answer, &c.

Joinder.

And the said *Benjamin* says, that the plea aforesaid by the said *Benjamin* in manner and form aforesaid above pleaded, and the matter in the same contained, are good and sufficient in law to quash the said bill of the said master and keepers, or wardens and commonalty of the mystery or art of stationers of the city of *London*: Which said plea, and the matter therein contained, he the said *Benjamin* is ready to verify and prove, as the court, &c. And because the said master and keepers, or wardens and commonalty of the mystery or art of stationers of the city of *London* to the plea aforesaid do not answer, nor the same hitherto any way deny, he the said *Benjamin*

jamin, as before, prays judgment of the bill aforesaid, and that that bill may be quashed: Continuance. But because the court of the said Lady the Queen now here are not yet advised to give Salk. 707. their judgment of and upon the premisses, day is given to the said parties before the Lady 776. the Queen at *Westminster* until *Saturday* next after the *Octave* of the purification of the blessed virgin *Mary* to hear their judgment of and upon the premisses aforesaid, because the court of the said Lady the Queen now here thereof not yet, &c. At which day before Respondens answer. the Lady the Queen at *Westminster* come as well the said master and keepers or wardens Pract. Reg. 1. and commonalty of the mystery or art of stationers of the city of *London* aforesaid, as the said *Benjamin* by their attornies aforesaid: Whereupon all and singular the premisses being seen, and by the court of the said Lady the Queen now here more fully understood, and mature deliberation being thereon had, because it seems to the court of the said Lady the Queen now here, that the said plea by the said *Benjamin* in manner and form aforesaid above pleaded, and the matter in the same contained, are not sufficient in law to quash the bill of the said master and keepers or wardens and commonalty of the mystery or art of stationers of the city of *London* aforesaid: Therefore it is considered that the said *Benjamin* do farther answer to the same bill, &c. And upon this the said *Benjamin* by his attorney aforesaid comes and defends the force and injury, when, &c. And prays oyer of the writing aforesaid, and to him it is read, &c. And pleads in bar.

Broughton Bart.

AND the said *John Broughton* by *J. L.* his attorney comes and defends the force and injury, &c. and prays judgment of the writ aforesaid, because he says, that he the said *John*, at the time of the impetration of the original writ aforesaid, and from thence continually afterwards hitherto was and yet is a Bart. only, and not a Knt. and Bart. without that, that the said *John Broughton* now is, or the day of the impetration of the original writ aforesaid was a Knt. and Bart. as by the said writ above is supposed: And this the said *John* is ready to verify: Wherefore he prays judgment of the writ aforesaid, and that that writ may be quashed, &c. Abatement, for that the defendant is a Baronet, not Knight and Baronet. Pract. Reg. 2. Salk. 50. 6.

Frith and Herd.

AND the said *Robert* by *J. L.* his attorney comes and defends the force and injury, &c. and says, that the said *John Herd*, the first day of *December* in the year of our Lord 1694, at *London* aforesaid in the parish and ward aforesaid, died intestate, after whose death administration of all and singular the goods and chattels, rights and credits which were the said *John Herd's* at the time of his death, by *Charles Hedges* Knt. doctor of laws, of the reverend father in Christ *Henry* by divine permission Lord bishop of *London* in the parts of *Essex* and *Hertford* commissary and sequestator general lawfully constituted, to whom the commission of the administration aforesaid did of right belong, the eighth day of the month of *February* in the year of our Lord 1694, at *London* aforesaid in the parish and ward aforesaid, to the same *Robert Herd* in due form of law was committed; in which case the said *Edward* and *Margaret* ought to name the said *Robert Herd* administrator of the goods and chattels of the said *John Herd*, and not executor of the testament of the said *John Herd*: And this he is ready to verify: Wherefore he prays judgment of the bill aforesaid, and that that bill may be quashed, &c. Plea, that the defendants are administrators, and not executors. Salk. 296. 3. Pract. Reg. 7.

Newcome and Bambridge.

AND the said *Richard* by *T. H.* his attorney comes and defends the force and injury, &c. and prays oyer of the writing aforesaid, and to him it is read in these words, *Noverint universi per presentes me Richardum Newcome de Castle Dennington in Com' Leicest' Yeom' teneri & firmit' obligari Johanni Bambridge de Lockington in com' Leicest' Armig' in ducent' & quiquagint libris bon' & legalis monete Angl' solvend' eidem Johanni aut suo certo attorn' executor' vel administrator' suis ad quam quidem solutionem bene & fidelit' faciend' obligo me heredes executor' & administrator' meos firmit' per presentes sigillo meo sigillat' dat' decimo die Decemb' anno regni Domini nostri Jacobi secundi Dei gra' Angliæ Scot' Franc' & Hibern' Regis fidei defens', &c. secundo annoq; Domini 1686.* He prays likewise oyer of the condition of the same writing, and to him it is read in these words, The condition, &c. which being read and heard, the same *Richard* prays judgment of the bill aforesaid, because he says, that the said *John* by his bill above supposes that the said *Richard* owes the said *John* 250 l. where in truth there are no such words in the said writing containing and warranting those words in the declaration aforesaid specified: And this he is ready to verify: Wherefore he prays judgment of the bill aforesaid, and that that bill may be quashed, &c. By false Latin, oyer of the bond. Hob. 18, 19, 20. Pract. Reg. 146. Salk. 462.

Griggs and Smith.

Misnomer in
the defen-
dant's chris-
tian name.
Pract. Reg.
199.
Salk. 6, 712.

AND *Carolinus Smith*, against whom the said *Richard Griggs* by his bill exhibited complains by the name of *Charles Smith*, by *J. A.* his attorney comes and defends the force and injury, &c. and prays judgment of the bill aforesaid, because he says, that he was baptized by the name of *Carolinus*, and by the same name from the time of his baptism hitherto always was called and known; without that, that he the same *Carolinus* now is or ever was called or known by the name of *Charles*, as by the bill aforesaid above is supposed: And this he is ready to verify: Wherefore he prays judgment of the bill aforesaid, and that that bill may be quashed, &c.

Misnomer in
the defen-
dant's title.
Salk. 7.
2 Keb. 824.
1 Vent. 151.
Raft. 108,
298.
Salk. 50. 5.
Stat. 1 H. 5.
c. 5.

AND *William G. Esq.* against whom the said *Thomas* by his bill exhibited complains by the name of *William G.* in his proper person comes and defends the force and injury, &c. and prays judgment of the bill aforesaid, because he says, that he, the day of the exhibition of the bill aforesaid of him the said *Thomas*, and always before, was, and yet is an Esquire: And this he is ready to verify: Wherefore, for that the same *William* in the bill aforesaid of him the said *Thomas* is not named and impleaded by the name of *William G. Esq.*; as he, according to the form of the statute of additions in the names of defendants in such bills filed, made and provided, ought to be named and impleaded, the same *William G.* prays judgment of the bill aforesaid, and that the bill aforesaid may be quashed, &c.

Woodhouse and Twyford.

Yet of *Easter* term. Witness *John Holt Knt.*

The grant of
the office of a
filazer of the
court of *K. B.*

BE it remembered, that *Wednesday* next after fifteen days of *Easter* that same term *John Holt Knt.* chief justice of the Lord and Lady the King and Queen, assigned to hold pleas in the court of the Lord and Lady the King and Queen before the King and Queen themselves, freely gave and granted to *James Woodhouse Esq.* the office of filazer in the court of the said King and Queen before the King and Queen themselves of the county of *Salop*; and, as it is usual, the said *James Woodhouse* to the said office of the county aforesaid is admitted, to have and to hold to him as his freehold for term of life, according to the custom of the court of the said Lord and Lady the King and Queen all times passed used and approved, and instantly the same *James Woodhouse*, as well the oath of his fidelity to the said Lord and Lady the King and Queen, according to the form of the statute in that case made and provided, as the corporal oath from henceforth well and faithfully to bear and behave himself in the same office, by him first taken as is accustomed, into the corporal possession of the same office put and instituted, to hold, occupy and have the same in form aforesaid, with the fees, wages and profits to the same office belonging and anciently due and accustomed, &c.

Roll 213.

Holt. Ventris.

That the de-
fendant is a
filazer of the
K. B.
There need
not be any af-
fidavit, but a
copy of the re-
cord affixed
to the plea.
Salk. 1, 2, 3.

And the said *James* in his proper person comes and defends the force and injury, and says, that in *Easter* term in the fifth year of the reign of the Lord and Lady *William* and *Mary* late King and Queen of *England*, &c. to wit, on *Wednesday* next after fifteen days of *Easter* that same term, *John Holt Knt.* chief justice of the said late King and Queen assigned to hold pleas in the court of the said late King and Queen before the King and Queen themselves, freely gave and granted to the said *James Woodhouse* the office of filazer in the court of the said late King and Queen, before the King and Queen themselves, of the county of *Salop*, and then and there the said *James Woodhouse* to the same office of filazer of the county of *Salop* aforesaid admitted, to have and to hold to him as his freehold for the term of his life, according to the custom of the said court of the said late King and Queen at all times then past used and approved, and instantly the said *James Woodhouse*, as well the oath of his fealty to the said late King and Queen according to the form of the statute in that case made and provided, as the corporal oath from thenceforth well and faithfully to bear and behave himself in the same office, by him first taken as was accustomed, into the corporal possession of the same office put and instituted, to hold, occupy and have the same in form aforesaid, with the fees, wages and profits to the same office belonging and anciently due and accustomed, &c. as by the record of the said grant and admission in the court of the now Lord the King before the King himself now remaining manifestly appears; by virtue of which grant and admission he the said *James* was filazer of the said court of the said King and Queen before the King and Queen themselves, and the day of the impetration of the original writ aforesaid was

and yet is filazer of the said court of the said Lord the King before the King himself, as is aforesaid. And the said *James* farther says, that from time immemorial such filazers of the same court of the said Lord the King here, according to the custom of the same court from the whole time aforesaid hitherto used and approved in the same court only, have been accustomed and ought to be impleaded in all pleas personal at the suit of any subject of the said Lord the King and his predecessors Kings and Queens of this realm, by bill in the court of the said now Lord the King before the King himself exhibited against such filazers present in the same court in proper person: And this he is ready to verify: Wherefore he prays judgment if the court of the Lord the King here will or ought to take farther cognizance of the said plea against him the said *James*, &c.

Edw. Whitaker.

Brown and Deeble.

AND now at this day, to wit, *Wednesday* next after 15 days of *Easter* this same term, Specialimpar-
to which day the said *Hierom*, saving to himself all and all manner of exceptions as to lance.
the bill aforesaid of the said *Edward*, had licence to imparl to the said bill, and then to answer, &c. before which day the Lady Queen *Mary* died, before the said Lord the King at Demise of Q.
Westminster comes as well the said *Edward*, by his attorney aforesaid, as the said *Hierom* by *Mary*.
R. S. his attorney; and the said *Hierom* defends the force and injury, &c. and says, that he
the said *Hierom* ought not to be compelled to answer to the bill aforesaid, because he says, Plea, Another
that the said *Edward* otherwise, to wit, in *Trinity* term last past, in the court of the action pend-
now Lord the King and of the late Lady Queen *Mary* of the Bench impleaded the said ing in the
Hierom in a certain plea of trespass on the case, and for the same cause in the declaration Common
aforesaid abovementioned, as by the record thereof in the same court remaining appears; Pleas.
and that the parties aforesaid to and in the plea in the said court of Bench, and the said Salk. 715.
Edward Brown now plaintiff, and he the said *Hierom Deeble*, are the same persons and not
other nor divers, and that the plea aforesaid in the said court of Bench yet remains undeter-
mined: And this he is ready to verify: Wherefore he prays judgment if he ought to be
compelled to answer to the said bill, &c.

And the said *Edward* says, that by any thing by the said *Hierom* above in pleading al- Repl. No
ledged, he the said *Hierom* to the declaration of the said *Edward* aforesaid ought to be such record.
compelled to answer, because he says there is not any such record of the impleading of
the said *Hierom* at the suit of the said *Edward* in the said court of the Lord the King of the
Bench remaining, as the same *Hierom* above in pleading hath alledged: And this he is ready
to verify: Wherefore he prays judgment, and that the said *Hierom* to the bill of the said
Edward aforesaid may answer, &c.

Dade at the suit of Bickford.

AND the said *Thomas Dade*, by *John Lilly* his attorney, comes and defends the force That another
and injury, &c. and prays judgment of the bill aforesaid, because he says, that one sealed the
Peter Albert the same 26 day of *August* in the year of our Lord 1699, at *London* aforesaid deed jointly
in the parish and ward aforesaid subscribed, sealed, and as his deed delivered to the said with the de-
John Bickford the said charter-party indented of affreightment in the bill aforesaid above- fendant.
mentioned, and that the same *Peter Albert*, and the said *Thomas* by that same charter-
party indented of affreightment jointly covenanted, granted and agreed, to and with the
said *John Bickford*, his executors, administrators and assigns, in manner and form as in the
bill aforesaid of the said *John* above is recited: Wherefore for that the said *Peter Albert* is
not named in the bill aforesaid, the same *Thomas Dade* prays judgment of the bill aforesaid,
and that that bill may be quashed, &c.

Another action depending for the same cause in the same court. Plea:

AND the said *Edward Dominee* says, that by any thing by the said *Owen Griffin* above Repl. *Griffin*
in pleading alledged, the bill aforesaid of the said *Edward* now filed ought not to be and *Dominee*.
quashed, because he says, that there is not any such record of the bill aforesaid in the plea No such re-
aforesaid specified in the same court of the said now Lady the Queen before the Queen cord in the
herself filed, or of record remaining, as the said *Owen* above in pleading hath alledged: same court.
And this he is ready to verify: Wherefore he prays judgment, and that the bill aforesaid
of the said *Edward* now filed may be adjudged good, and the said *Owen* may answer
thereto, or in default thereof his damages by reason of the premises to be adjudged to
him, &c.

And

Rejoinder,
that there is
such record.

And the said *Owen* says, that there is such a record of the bill aforesaid in the plea aforesaid of the said *Owen* above specified in the said court of the said Lady the Queen before the Queen herself, to wit, at *Westminster* aforesaid, of record filed, as he the same *Owen* above in pleading hath alledged, as appears upon the file of bills of the said *Hillary* term last past in the plea aforesaid last mentioned of record filed: And this he is ready to verify by that record, and prays that the term and file of bills by the court of the said Lady the Queen now here may be seen and inspected: But because the court of the said Lady the Queen now here to give their judgment of and upon the premisses are not yet advised, day therefore is given to the parties aforesaid, before the Lady the Queen at *Westminster*, until ——— next after ——— to hear their judgment of and upon that issue, because the court of the said Lady the Queen now here thereof not yet, &c.

Continuance.

Demurrer.
Salk. 218,
220, 93, 94.

And the said *Owen* says, that the plea aforesaid by the said *Edward* above in replying pleaded, and the matter in the same contained, are not sufficient in law to compel the said *Owen* to answer to the aforesaid bill of the said *Edward*, to which the said *Owen* hath no necessity, nor is by the law of the land bound in any manner to answer: And this he is ready to verify: Wherefore for default of a sufficient replication of the said *Edward* in this behalf, the same *Owen* as before prays judgment of the bill aforesaid, and that that bill may be quashed, &c.

Joinder.

And the said *Edward* says, that the plea aforesaid by the said *Edward* in manner and form aforesaid above in replying pleaded, and the matter in the same contained, are good and sufficient in law to compel the said *Owen* to answer to the bill of the said *Edward*, which said plea, and the matter therein contained, the same *Edward* is ready to verify and prove, as the court, &c. And because the said *Owen* to that plea doth not answer, nor hitherto any ways deny it, the same *Edward* prays judgment, and that the said bill of the said *Edward* aforesaid may be adjudged good, &c. and the said *Owen* may thereto farther answer, &c. or in default thereof his damages by reason of the premisses to be adjudged to him, &c. But because the court of the said Lady the Queen now here to give their judgment of and upon the premisses are not yet advised, day therefore is given to the parties aforesaid before the Lady the Queen at *Westminster* ——— next after ——— to hear their judgment of and upon those premisses, because the court of the said Lady the Queen now here thereof not yet, &c.

Fritb and others at the suit of Kemp and others.

Demurrer in
abatement to
a declaration.
Salk. 220.
Pract. Reg. 4.

Force and injury, &c. and pray judgment of the declaration aforesaid, because they say, that the declaration aforesaid, and the matter therein contained, are not sufficient in law to maintain the action of the said *John, James* and *Mary* thereof against the said *Richard* and *Cadogan* had, to which said declaration the same *Richard* and *Cadogan* have no necessity, nor are by the law of the land obliged in any manner to answer: And this they are ready to verify: Wherefore for want of a sufficient declaration in this behalf, the same *Richard* and *Cadogan* pray judgment of the declaration aforesaid, and that that declaration may be quashed, &c.

Joinder.

And the said *John, James* and *Mary* say, that the declaration aforesaid, and the matter in the same contained, are good and sufficient in law for the said *John, James* and *Mary* to maintain their action aforesaid thereof against the said *Richard* and *Cadogan* had; which said declaration, and the matter in the same contained, the same *John, James* and *Mary*, are ready to verify and prove, as the court, &c. Wherefore for that the same *Richard* and *Cadogan* the matter aforesaid in the declaration aforesaid do not deny, nor thereto any way answer, the same *John, James* and *Mary* pray judgment, and their damages by reason of the premisses to be adjudged to them, &c. But because the court of the said Lord the King now here to give their judgment of and upon the premisses are not yet advised, day therefore is given to the parties aforesaid, before the Lord the King at *Westminster*, until *Wednesday* next after five weeks of *Easter*, to hear their judgment of and upon the premisses, because the court of the Lord the King now here thereof not yet, &c. At which day before the Lord the King

Continuance.

Judgment for
the plaintiffs.

at *Westminster* come the parties aforesaid, by their attornies aforesaid; whereupon all and singular the premisses being seen, and by the court of the said Lord the King now here more fully understood and considered, and mature deliberation being thereon had, it seems to the court of the Lord the King now here, that the declaration aforesaid, and the matter in the same contained, are good and sufficient in law for the said *John, James* and *Mary* to maintain their action aforesaid thereof against the said *Richard* and *Cadogan* had: Wherefore the same *John Kemp, James Goodwyn* and *Mary Perkins* ought to recover their damages against the said *Richard Smith* and *Cadogan Thomas* by reason of the premisses aforesaid. But because it is unknown to the court of the said Lord the King now here what damages they the same *John, James* and *Mary* have sustained by reason of the premisses; Therefore the sheriff of *Middlesex* is commanded, that he, by the oath of twelve good and lawful men of his bailiwick, diligently inquire what damages they the same *John, James* and *Mary*, as well by reason of the premisses aforesaid, as for their costs and charges by

Inquiry a-
warded.

them

them about their suit in this behalf expended have sustained, and send the inquisition which, &c. to the Lord the King at *Westminster*, on *Friday* next after the morrow of the holy *Trinity*, under the seal, &c. and the seals, &c. together with the writ of the said Lord the King to him therefore directed. The same day is given to the said *John, James and Mary* there, &c.

Carter and Mogg.

AND the said *Nathaniel*, being on the same day solemnly called, by *Thomas Callooe* *Scire fac' quod executionem non on error. Plea.* his attorney likewise comes and prays judgment of the writ of *scire facias* aforesaid, because he says, that there are not fifteen days between the *teste* and return of the said writ of *scire facias* aforesaid: And this he is ready to verify: Wherefore he prays judgment of that writ, and that the writ aforesaid may be quashed, &c.

And the said *Martin* says, that by any thing by the said *Nathaniel* above in pleading alleged, the said writ of the said *Martin* ought not to be quashed, because he says, that the plea aforesaid by the said *Nathaniel* in manner and form aforesaid above pleaded, and the matter in the same contained, are not sufficient in law to quash the aforesaid writ of the said *Martin* against the beforementioned *Nathaniel*, to which said plea in manner and form aforesaid pleaded the same *Martin* hath no necessity, nor is by the law of the land obliged in any manner to answer: And this he is ready to verify: Wherefore for want of a sufficient plea of the said *Nathaniel* in this behalf, the same *Martin* prays judgment and his execution, according to the force, form and effect of the recovery aforesaid, to be adjudged to him.

And the said *Nathaniel* says, that the plea aforesaid by the said *Nathaniel* in manner and form aforesaid above pleaded, and the matter in the same contained, are good and sufficient in law to quash the writ of the said *Martin* against the said *Nathaniel*: Which said plea, and the matter in the same contained, the same *Nathaniel* is ready to verify and prove, as the court, &c. And because the said *Martin* to that plea doth not answer, nor the same hitherto any way deny, the said *Nathaniel*, as before prays judgment, and that the said writ may be quashed, &c. But because the court of the Lord the King here to give their judgment of and upon the premisses are not yet advised, day therefore is given to the parties aforesaid before the Lord the King until ——— wherefore, &c. to hear their judgment of and upon the premisses, because the court of the said Lord the King now here thereof not yet, &c.

Crompt and —

AND the said *John Crompt* in his proper person comes and defends the force and injury, and says, that he, long before the exhibition of the bill aforesaid of the said *Dorothy*, and at the same time, and continually afterwards was, and yet is an attorney of the court of the Lord the King of the Bench at *Westminster* in the county of *Middlesex*, as by the process under the seal of the same court to this plea annexed more fully appears; and that he divers pleas and affairs of divers and many liege subjects of the said now Lord the King in the same court of Bench aforesaid to be prosecuted and defended as their attorney doth there prosecute and defend: And the same *John* says, that he and all other attorneys of the same Bench, for their clients in the same court prosecuting and defending, by a laudable and ancient custom, and according to the law of this kingdom of *England* and the liberties and privileges of the same court of the Bench aforesaid, from time immemorial used and approved, to answer before any justices or ministers of the Lord the King or other judges whatsoever in any court, except before the justices of the Lord the King of the Bench aforesaid at *Westminster*, upon any pleas or complaints, (pleas of freehold and felony, and appeals, only except) against their wills ought not to be drawn or compelled, nor at any times past have been accustomed, according to the liberties and privileges of the said court of the Bench aforesaid, from the whole time aforesaid used and approved: And this he is ready to verify: Wherefore he prays judgment if he ought to be compelled to answer to the said *Dorothy* to the said plea here in court, &c.

Theo. Caribero.

That the defendant is an attorney of the Common Bench: Note: It must not be pleaded with *verben*, &c. for that admits the jurisdiction of the court, as *verben* and at the court, &c. shall order. Note: This plea will not be allowed now, unless pleaded as by process, &c. and the writ under seal annexed to the plea.

Dobson against Shore.

Whereupon the said *John Dobson*, saving to himself all and all manner of advantages, exceptions and allegations to the plea aforesaid of the beforementioned *John Shore*, *Samuel Astre*, *Thomas Barret*, *Richard Brown*, *John Lipps* and *Richard Humphrey*, prays leave to imparl before the Lord and Lady the King and Queen at *Westminster* until *Wednesday* next after 15 days of *St. Hill*. and he hath it, &c. The same day is given the parties aforesaid there, &c. At which day before the said Lord and Lady the King and Queen at *Westminster* come as well the

Replication upon a special imparlance continued:

Letters of ab-
solution.

the said *John Dobson* as the said *John Shore, &c.* by their attornies aforesaid; whereupon the said *J. D.* saving to himself as is aforesaid, farther prays leave to imparl thereto, &c. before the said Lord and Lady the King and Queen at *Westminster* until *Tuesday* next after the *Octave* of the purification of the blessed *Mary*, and he hath it, &c. The same day is given to the parties aforesaid, &c. At which day before the said Lord and Lady the King and Queen at *Westminster* come as well the said *J. D.* as the said *J. S. &c.* by their attornies aforesaid. And the said *J. D.* says, that after the last continuance of the plea aforesaid, to wit, after the said *Wednesday* next after 15 days of *St. Hillary*, from which day the said plea was continued until this day, to wit, *Tuesday* next after the *Octave* of the purification of the blessed virgin *Mary*, to wit, the tenth day of *February* in the year of our Lord 1689, the said *J. D.* from the sentence of excommunication aforesaid was and yet is absolved and released, and to the communion of *Christ's* faithful and the sacraments of the church restored. And the same *J. D.* produces here in court the letters patent of *G. O.* Doctor of laws, of the court of *Canterbury* of the Arches *London* official principal lawfully constituted, testifying the said absolution, which letters patent follow in these words, to wit, *G. O.* Doctor of laws, of the court of *Canterbury* of the Arches *London* official principal lawfully constituted, To all and singular rectors, vicars, chaplains, curates, clerks and learned men whomsoever in and throughout the whole province of *Canterbury* wheresoever appointed, greeting. Whereas it is shewn to us by appeal, on the part of our beloved in *Christ* *J. D.* of *Hamsey* in the county of *Sussex* and arch-deaconry of *Lewes* and diocese of *Chichester*, that altho' *T. B.* Doctor of laws, commissary or official principal of the reverend father in God *Simon* by divine permission bishop of *Chichester*, in and throughout the whole arch-deaconry of *Lewes* in the diocese of *Chichester*, or his surrogate, had some time since excommunicated the said *J. D.* for his contumacy in not appearing before the said Doctor *Briggs*, or his surrogate, at a certain day, hour and place in that behalf before appointed, to answer *J. S.* clerk, rector of the rectory of *Hamsey* aforesaid, in a certain cause of subtraction of tithes and other ecclesiastical rights, and from the same excommunication, at the petition of the said *J. D.* personally appearing, and promising to obey the law and commands of the church in all things lawful and honest, had absolved, and to the communion of *Christ's* faithful had restored; and that *J. E.* clerk, surrogate of the said *Dr. B.* and *T. B.* deputy register of the said *Dr. B.* the letters of absolution in that behalf wrote afterwards respectively subscribed and sent out; nevertheless *J. L.* of *Lewes* in the county of *Sussex*, keeper of the seal of the said *Dr. B.* the judge from whom in this behalf it is appealed, altho' often lawfully requested, has refused and denied to put and affix the said seal to the said letters of absolution, to the great damage and prejudice of the said *J. D.* Wherefore the said *J. D.* thinking himself unlawfully hurt and aggrieved by the not putting and affixing the said seal to the said letters of absolution, and from every thing subsequent thereto, and fearing he may be greatly prejudiced hereafter, from them to the court of *Canterbury* of the Arches *London*, and us the official thereof hath appealed, and of the nullity and pravity of the premisses hath complained: We therefore proceeding in this appeal *ex superabundanti*, the said *J. B.* promise being first made by *John Hungerford* notary publick, his proctor for his obeying the law and commands of the church in all things lawful and honest, from the said sentence of excommunication until the first session of next *Easter* term have absolved, and to the communion of *Christ's* faithful have restored: We command you jointly and severally, that you by our authority forbid the said *T. B.* Doctor of laws, the judge from whom it is as aforesaid appealed, and his register, the said *J. S.* and *J. L.* in particular, and all others whom the law requires in this behalf to be forbidden in general, that they, or any of them, do not in any wise attempt, or cause or procure any thing to be attempted, to the prejudice of the party appealing, pending the said appeal before us or our surrogate, or other competent judge in that behalf whatsoever undetermined, whereby the said party appellant may not have free liberty of prosecuting his said appeal, as shall be just, on pain of the law. Cite therefore, or cause to be cited peremptorily, the said *John Lipps*, that he appear before us or our surrogate, or other competent judge in that behalf whatsoever, in the hall of the common inn of the Lords of the Arches in the parish of *St. Benedict* near *London-bridge* notoriously situated, and in the judicial place there, on the fourth day next after such citation to him in that behalf made, if it shall be a law-day, otherwise the law-day then next following, at the usual hour of hearing causes there, to answer the said *John Dobson* in such his appeal, and farther to do and receive what shall be just in this behalf; commanding beside you the said rectors, vicars, chaplains, curates and clerks whomsoever,

in and throughout the whole province of *Canterbury* wherever appointed, that you jointly and severally the said *John Dobson* from the said sentence of excommunication against him as above given and promulged, until the first ——— of *Easter* term next by us absolved, and to the communion of Christ's faithful restored.

Fuller at the suit of Dovee.

AND the said *James Fuller*, by J. S. his attorney, comes and defends the force and A writ of error pending in the Exchequer Chamber, pleaded in abatement to an action of debt.
injury, &c. and prays judgment of the said bill of the said *Robert Dovee*, because he says, that after the rendition of the judgment aforesaid in the declaration aforesaid specified, and before the exhibition of the said bill of the said *Robert Dovee*, to wit, 29th day of *October* in the 7th year of the reign of the now Lord the King, the said *James Fuller*, for the reversing of the judgment aforesaid, prosecuted out of the court of Chancery of the said Lord the King, the same court then being at *Westminster*, a certain writ of the said Lord the King, to correct error in the record and process, as also in the rendition of that judgment, directed to the trusty and beloved of the said Lord the King *John Holt*, Knt. then and yet chief justice of the said Lord the King, assigned to hold pleas before the King himself; by which said writ the said Lord the King commanded the said Lord chief justice, that if judgment thereon was then given, then he should cause to come the record and process of the said plea, with all things touching the same, before the justices of the Common Bench and the barons of the Exchequer of the degree of the coif in the chamber of the Exchequer of the said Lord the King at *Westminster*, on *Wednesday* the 27 day of *November* then next following, that the said justices of the Common Bench and barons of the Exchequer, the record and process being seen and examined, might farther in that behalf cause to be done what of right, and according to the form of the statute in such case made and provided, should be to be done; by virtue of which said writ of error the said chief justice afterwards, to wit, the said 27 day of *November*, the record and process of the plea and judgment aforesaid, together with all things touching the same, before the justices of the said Lord the King of the Common Bench and his barons of the Exchequer of the degree of the coif, into the chamber of the Exchequer aforesaid, at *Westminster* aforesaid transmitted, and the record and process of the judgment aforesaid there yet remain, and the said writ to correct error in the said court of the chamber of Exchequer aforesaid at *Westminster* aforesaid yet depends undetermined; and the judgment aforesaid is as yet neither affirmed nor reversed, as by the record thereof in the same court of the chamber of Exchequer aforesaid at *Westminster* aforesaid, before the said justices of the said Lord the King of the Common Bench and barons aforesaid remaining, more fully is manifest and appears: And this the said *James Fuller* is ready to verify by the record, judgment and process aforesaid: Wherefore he prays judgment of the bill aforesaid, and that that bill may be quashed, &c.

Edw. Northey.
St. John Brodrick.

Account.

Account.

Andrews against Thornton.

Account by
the church-
wardens a-
gainst the late
churchwar-
den.

Cro. Jac. 234.
Pract. Reg.
267, 680, 30,
34.

London, to wit.

N Atbaniel Andrews and Thomas Lucas, wardens of the parish-church of St. Catherine Coleman-street, London, complain of Thomas Thornton late warden of the parish-church aforeaid, in custody of the marshal, &c. in a plea, that he render to them his reasonable account from the time that he was warden of the parish-church aforeaid, and receiver of the monies of the parish-church aforeaid, for this, to wit, that whereas the said T. T. from the 10th day of April in the year of our Lord 1675, until the first day of April 1676, at London aforeaid, to wit, in the parish, &c. aforeaid in the ward of A. London, was warden of the church aforeaid and receiver of the monies of the parish-church aforeaid for the time aforeaid, and the care and administration of the goods and money of the parish-church aforeaid for the time aforeaid had, and for the same time at London aforeaid in the parish and ward aforeaid, as warden of the said church, received by the proper hands of the said T. T. 100 l. of lawful money of England of the money of the church aforeaid, to expend and lay out to the use of the parish-church aforeaid, and to render his reasonable account of the same to the said N. A. and T. L. wardens of the church aforeaid, when he should be thereto required; nevertheless the said T. T. altho' often required, &c. that reasonable account to the said N. A. and T. L. or either of them hath not rendered, but that to the same N. A. and T. L. hitherto to render altogether has denied, and yet doth deny, to the damage of the said N. A. and T. L. 100 l. And therefore they produce the suit, &c.

Abatement.
Another was
warden with
the defendant.

And the said T. T. by A. B. his attorney comes and defends the force and injury when, &c. and prays judgment of the bill aforeaid, because he says, that one T. S. together with the said T. T. 10th day of April 1675, in the bill aforeaid mentioned, was warden and receiver of the monies, and had the care and administration of the goods and chattels of the church aforeaid for the time aforeaid; and that the said T. S. is yet living, to wit, at London aforeaid in the parish and ward aforeaid; without that, that the said T. T. was warden and receiver of the monies, and had the care and administration of the goods and chattels of the church aforeaid for that time by himself, as the said N. and T. in the bill aforeaid above have declared: And this he is ready to verify: Wherefore for that the said T. S. is not named in the bill aforeaid, the same T. T. prays judgment of the bill aforeaid, and that that bill may be quashed, &c.

Traverse.

Demurrer.

And the said N. and T. say, that by any thing by the said T. T. above by pleading alleged, the said bill of the said N. and T. ought not to be quashed, because they say, that the plea aforeaid by the said T. T. for quashing of the bill aforeaid above pleaded, and the matter in the same contained, are not sufficient in law to quash the said bill of the said N. and T. or to preclude the said N. and T. from their action aforeaid against the said T. T. had: And this they are ready to verify: Wherefore for want of a sufficient plea in this behalf the same N. and T. pray judgment, and that their bill aforeaid may be adjudged good, and that the said T. T. to the bill aforeaid may answer, &c. And for causes of demurrer in law to that plea, according to the form of the statute in such case thereof lately made and provided, they do set down and to the court here express these causes following, to wit, for that the said plea is uncertain, and contains in it a negative pregnant, and because the said T. T. by that plea hath made a full defence, and traverses matter not traversable, and wants form, &c.

The causes.
27 El. c. 5.
4 Ann. c. 16.

W. Thompson.

Turner

Turner and Turner.

Derby, to wit. **C**harles Turner, Gent. complains of *John Turner*, Gent. in custody of the *Pasch. 13 W.* marshal, &c. in a plea that he render to him his reasonable account from 3. the time that he was guardian of the said *Charles*: as also from the time that he was bailiff Account a- of the said *Charles* at *Sandwicke* in the parish of *Alfreton* in the county aforesaid, for this, to gainst a bailiff wit, that whereas by the common council of the kingdom of the Lord the King of *England* and guardian. it is provided, that the guardians of the lands and tenements which are held in socage of 1 *Ventr. 105.* the heirs of those lands and tenements, when they shall come to their full age, shall render Salk. 9. their reasonable account of the issues from those lands and tenements arising from the time that they had the custody thereof by reason of the minority of the said heirs, the said *John* his reasonable account of the issues arising from the lands and tenements of the said *Charles*, to wit, of 2 messuages, 3 cottages, 5 gardens, and 80 acres of land, 30 acres of meadow, 80 acres of pasture, and 30 acres of wood, with the appurtenances in *Sandwicke* aforesaid in the parish of *Alfreton* aforesaid in the county aforesaid, the wardship of which premisses the said *John* had, to wit, from the 6th day of *January* in the year of our Lord 1684 to the 20th day of *July* in the year of our Lord 1691, (the same *Charles* by all the same time being under the age of 14 years) and for all the same time had received the issues and profits of the messuages and tenements aforesaid, altho' often requested, &c. to the same *Charles* hath not render'd, but the same to him hitherto to render hath refused, and yet doth refuse. And whereas also the said *John* afterwards, to wit, the 20th day of *July* in the year of our Lord 1691 aforesaid at *Sandwicke* aforesaid in the parish of *Alfreton* aforesaid in the county aforesaid, was bailiff of the said *Charles* of 2 messuages, 3 cottages, 5 gardens, and 80 acres of land, 30 acres of meadow, 80 acres of pasture, and 30 acres of wood, with the appurtenances in *Sandwicke* aforesaid in the parish of *Alfreton* aforesaid in the county aforesaid, from the said 20th day of *July* in the year of our Lord 1691 to the 7th day of *October* in the year of our Lord 1698, and the yearly profits thereof for all the same time received and had, to render his reasonable account thereof to the same *Charles* when he should be thereto requested: Nevertheless the said *John*, altho' often requested, &c. that reasonable account to the same *Charles* hitherto hath not rendered, but the same to him hitherto to render altogether hath refused, and yet doth refuse, to the damage of the said *Charles* 1500 *l.* And therefore he produces the suit, &c.

Tawdin and Lavie.

Midd., to wit. **J**ames Tawdin the younger and *James Frontin*, executors of the last will and testament of *James Tawdin* the elder deceased, complain of *Henry Lavie* Account by an executor of a merchant, being in the custody of the marshal of the *Marshalsea* of the Lord the King, before the King himself, in a plea that he render to them a reasonable account from the time that he was bailiff of the said *James Tawdin* the elder, and receiver of the money of the said *James* in his life-time, at *Westminster* in the county aforesaid, for this, to wit, that whereas the said *Henry* from the 10th day of *May* in the 31st year of the reign of the Lord *Charles* the Second now King of *England*, &c. until the 30th day of *September* in the 32d year of the reign of the said now Lord the King at *Westminster* in the county aforesaid, was bailiff of the said *James* the testator in his life-time, and for all the same time had the care and administration of divers goods and chattels of the said *James Tawdin* the elder, to wit, of two hundred thousand pounds of pewter, thirty firkins of stub-nails, two hundred and twenty-four pounds of spelter, forty thousand pounds of lead, and five hundred and fifty pounds of tume glafs, to the value of 3000 *l.* to wit, at *Westminster* aforesaid in the county aforesaid, to merchandize and make profit thereof for the said *James Tawdin* the elder, and a reasonable account thereof to the same *James* the testator, when he should be thereunto required, to render, and receiver of the monies of the said *James Tawdin* the elder, for the whole time aforesaid, and for the same time did receive of the monies of the said *James Tawdin* the testator, at *Westminster* aforesaid, by the hands of *Peter Pontoise* 113 *l.* 5 *d.* money. and there by the hands of *Peter Cbabot* 9 *l.* and there by the proper hands of the said *Henry Lavie* 960 *l.* of lawful money of *England*, to render a reasonable account thereof to the said *James* the testator, when he should be thereunto required: Nevertheless the said *Henry Lavie*, although often required, &c. that reasonable account to the said *James Tawdin* the elder in his life-time, or to the same *James Tawdin* the younger and *James Frontin*, or either of them, after the death of the said *James Tawdin* the testator, hath not rendered, but that to the said *James* the testator, and to the said *James*, now one of the plaintiffs, and *James Frontin*, after the death of the said *James* the testator, E or

or to either of them, to render altogether hath refused, and that to the said *James Tawdin* the younger, and *James Frontin*, and to either of them, yet to render doth refuse, to the damage of the said *James Tawdin* the younger and *James Frontin* 10,000 l. And therefore they produce the suit, &c. And the same *James Tawdin* the younger, and *James Frontin*, produce here in court the letters testamentary of the said *James Tawdin* the testator, by which it sufficiently appears to the court here, that the said *James Tawdin* the younger, and *James Frontin* are executors of the testament of the said *James Tawdin* the elder, and thereof have the administration, &c.

Action on the case.

Tomkins against Roberts.

Assumpsit for
wines sold and
delivered.
Pract. Reg.
109, 120.

Note; on this
count the
plaintiff must
prove the ex-
press price a-
greed on.

Breach.

On this count
the delivery
only.

Averment.
Pract. Reg.
155, 157.

Breach.
N. B. The
damage must
be the same as
in the writ, or
the bail are
discharged.

Midd, to wit. **M**ARTIN *Tomkins* complains of *Thomas Roberts* in custody of the marshal, &c. for that, to wit, that whereas the said *Thomas* 30 day of September in the 12th year of the reign of the Lord *William* the Third now King of England, &c. at *Westminster* in the county aforesaid, was indebted to the said *Martin* in 50 l. of lawful money of England, for wines by him the said *Martin* to the same *Thomas*, and at his special instance and request, before sold and delivered; and the said *Thomas* so therein being indebted, he the same *Thomas* in consideration thereof afterwards, to wit, the day, year and place aforesaid, assumed upon himself, and to the same *Martin* then and there faithfully promised, that he the same *Thomas* the said 50 l. with interest to the same *Martin*, when thereunto afterwards he should be requested, would well and faithfully pay and content: Nevertheless the said *Thomas* his promise and assumption aforesaid in form aforesaid made not regarding, but contriving and fraudulently intending him the said *Martin* of the said 50 l. with the interest thereof in this behalf craftily and subtilly to deceive and defraud, the said 50 l. with the interest thereof to the same *Martin* hath not yet paid, nor him for the same hitherto in any wise contented, altho' the same *Thomas* afterwards, to wit, the first day of May in the 13th year of the reign of the said now Lord the King, and often after, at *Westminster* aforesaid in the county aforesaid, by the same *Martin* to do it was requested, but the same to him hitherto to pay, or therefore in any wise to content, hath altogether refused, and yet doth refuse. And whereas also the said *Martin* afterwards, to wit, the first day of October in the 12th year aforesaid, at *Westminster* aforesaid in the county aforesaid, at the special instance and request of him the said *Thomas*, had sold and delivered to him the said *Thomas* other wines; the same *Thomas* in consideration thereof afterwards, to wit, the same day, year and place last mentioned, assumed upon himself, and to the said *Martin* then and there faithfully promised, that he the said *Thomas* so much money, as he the said *Martin* for the wine last mentioned should reasonable deserve to have, to the same *Martin*, when thereto afterwards he should be requested, would well and faithfully pay and content: And in fact the same *Martin* says, that he for the wine last mentioned reasonably deserved to have of the said *Thomas* 60 l. of like lawful money of England; and thereof the said *Martin* afterwards, to wit, the same day, year and place aforesaid, to the same *Thomas* gave notice: Nevertheless the said *Thomas* his promise and assumption aforesaid last mentioned not regarding, but fraudulently intending the same *Martin* of the said 60 l. in this behalf craftily and subtilly to deceive and defraud, the said 60 l. or any penny thereof to the said *Martin* hath not yet paid, altho' often requested, &c. but the said *Thomas* the same to him hitherto to pay, or for the same in any wise to content, hath altogether refused, and yet doth refuse, to the damage of the said *Martin* 60 l. And therefore he produces the suit, &c.

Page against Morgan and another.

Assumpsit a-
gainst two de-
fendants for
goods sold and
delivered.
Salk. 710.

The city of *Bristol*, to wit. **T**homas *Page* complains of *George Morgan* and *Samuel Weekes* in the custody of the marshal, &c. for this, to wit, that whereas the said *George* and *Samuel* the first day of November in the year of our Lord 1699, at the city of *Bristol* in the county of the same city, were indebted to the same *Thomas* in 4 l. of lawful money of England, for divers goods and merchandizes by him the said *Thomas* to the same *George* and *Samuel*, and at the special instance and request of them the said *George* and *Samuel* before that time there sold and delivered; and the same *George* and *Samuel* so therein being indebted, the same *George* and *Samuel* then

then and there in consideration thereof assumed upon themselves, and to the same *Thomas* then and there faithfully promised, that they the said *George* and *Samuel* the said 4*l.* to the same *Thomas*, when thereunto afterwards they should be requested, well and faithfully would pay and content: And whereas also the said *Thomas* afterwards, to wit, the same day and year abovesaid, at the city of *Bristol* abovesaid in the county of the same city, at the special instance and request of them the said *George* and *Samuel*, had sold and delivered to the same *George* and *Samuel* divers other goods and merchandizes, the same *George* and *Samuel* in consideration thereof afterwards, to wit, the same day, year and place last mentioned, assumed upon themselves, and to the said *Thomas* then and there faithfully promised, that they the same *George* and *Samuel* so much money, as he the said *Thomas* for the goods and merchandizes last mentioned should reasonable deserve to have, to the said *Thomas*, when thereunto afterwards they should be requested, well and truly would pay and content: And in fact the said *Thomas* says, that he for the goods and merchandizes abovesaid last mentioned reasonably deserved to have of the said *George* and *Samuel* other 4*l.* of like lawful money of *England*, and thereof the said *Thomas* afterwards, to wit, the same day, year and place abovesaid, to the same *George* and *Samuel* gave notice: And whereas also the said *George* and *Samuel* afterwards, to wit, the same day and year abovesaid, at the city of *Bristol* abovesaid in the county of the same city, were indebted to the same *Thomas* in other 4*l.* of like lawful money of *England*, for work and labour by him the said *Thomas* for the same *George* and *Samuel* and at their special instance and request before there done and performed; and the said *George* and *Samuel* then and there in consideration thereof assumed upon themselves, and to the said *Thomas* then and there faithfully promised, that they the same *George* and *Samuel* the said 4*l.* last mentioned to the same *Thomas*, when thereunto afterwards they should be requested, well and faithfully would pay and content: And whereas also the said *George* and *Samuel* afterwards, to wit, the same day and year abovesaid, at the city of *Bristol* abovesaid in the county of the same city, in consideration that the said *Thomas* at the like special instance and request of the said *George* and *Samuel* had done and performed certain other work and labour for the said *George* and *Samuel*, they the same *George* and *Samuel* assumed upon themselves, and to the same *Thomas* then and there faithfully promised, that they the same *George* and *Samuel* as much money, as he the said *Thomas* for the work and labour abovesaid last mentioned should reasonably deserve to have, to the same *Thomas*, when thereunto afterwards they should be required, well and faithfully would pay and content: And the same *Thomas* in fact says, that he the same *Thomas*, for the work and labour abovesaid last mentioned reasonably deserved to have of the same *George* and *Samuel* other 4*l.* of like lawful money of *England*, whereof the same *George* and *Samuel* then and there had notice: And whereas also (the other count was for money laid out and expended by the plaintiff for the defendants): Nevertheless the said *George* and *Samuel* their several promises and assumptions not regarding, but contriving and fraudulently intending the said *Thomas* of the said several sums of money in this behalf craftily and subtilly to deceive and defraud, the said several sums of money or any penny thereof to the said *Thomas*, altho' often required, &c. have not yet paid, nor has either of them paid, but the same to him hitherto to pay altogether have refused, and yet do refuse, to the damage of the said *Thomas* 20*l.* And therefore he produces the suit, &c.

Quantum meruit.
Averment.

Indeb' assump' for work done.

Quant' mer'.

Averment.

Breach.

Chiswell against Baguley. Easter 7th of the Queen.

London, to wit. **R** *Ichard Chiswell* the younger, of *London* merchant, complains of *William Baguley* in the custody of the marshal, &c. for this, to wit, that whereas the same *Richard* the 11th day of *February* hereafter mentioned, as also long before, was a merchant at *London* abovesaid, residing and using and having commerce with merchants and other persons in divers things and merchandizes amounting to great sums of money, to wit, at *London* abovesaid in the parish of *St. Michael Bassishaw* in the ward of *Bassishaw*, and thereby the same *Richard* great gain and profit acquired and gained: Nevertheless the said *William* of the premisses not ignorant, but wickedly and maliciously intending, contriving and proposing the said *Richard*, under the colour and pretence of process of law, unduly and unjustly to vex, aggrieve, oppress and impoverish, and the said *Richard* without any just or reasonable cause to be imprisoned, and in prison to cause to be detained, and the friends and neighbours of the said *Richard* from becoming bail for the same *Richard* to deter and divert, to the intent that the said *Richard* should be detained in prison for want of bail, and so of his liberty might wrongfully and without any cause be spoiled and deprived, and the said *Richard* in transacting his lawful business and affairs to hinder, and in his credit and estate unjustly to lessen, damnify and destroy, the said *William Baguley*, 10th day of *February* in the fifth year of the reign of the Lady *Anne* now Queen, &c. at *London* abovesaid in the parish of *St. Michael Bassishaw* abovesaid in the ward of *Bassishaw* abovesaid, maliciously and without any probable cause of

Case for suing the plaintiff in the court of the mayor of *London*, to the pretended damage of 1000*l.* having no cause of action.

Salk. 15, 21, 456, 727.
Pract. Reg. 23.

of action, at the court of the said Lady the Queen before *Robert Bedingfield* Knt. mayor of the city of *London* aforesaid in the chamber of the *Guild-hall* of the said city, situate in the parish and ward aforesaid, then and there held according to the custom of the city aforesaid in the same city time out of mind used, affirmed in the same court his bill original against the same *Richard Chiswell* at the suit of the said *William Baguley*, in a plea of trespass on the case, to the pretended damage of the said *William Baguley* 1000*l.* And thereupon it was in such manner proceeded in the same court, that afterwards, to wit, 11th day of *February* aforesaid in the year aforesaid, at *London* aforesaid, to wit, at the parish and ward aforesaid, the said *William Baguley*, by virtue of a precept of the said mayor and aldermen in that behalf according to the custom of the city aforesaid to one of the serjeants and minister of the court aforesaid made, the said *Richard* to be taken, arrested and imprisoned, unjustly and maliciously caused and procured for the said pretended cause in the said original bill of the said *William* specified, and him the said *Richard Chiswell* in prison then and there for a long time, to wit, for the space of six hours, maliciously and unjustly caused to be detained, until the said *Richard Chiswell* for his delivery and discharge from the prison aforesaid was compelled to find and put in good and sufficient bail, to answer to the said *William Baguley* in the plea of his bill original aforesaid, and also the same *Richard* great sums of money for his delivery and discharge aforesaid to lay out and expend was obliged, by reason of the unjust and malicious arrest and imprisonment aforesaid, when in truth and in fact the said *Richard Chiswell*, at the said time of the affirmation of the original bill aforesaid, or at the time of the taking of him the said *Richard*, was no ways indebted to the said *William*, nor had the said *William Baguley*, at the same beforementioned times, or either of them, any just or reasonable cause of action against the said *Richard Chiswell*, as in the bill original aforesaid was pretended and expressed: And the said *William Baguley* at any time after hitherto in the said plea of his bill original aforesaid against the said *Richard Chiswell* hath never declared, nor the plea of his bill original aforesaid farther in any wise prosecuted; whereby the same *Richard Chiswell* says that he is prejudiced, and has damage to the value of 1000*l.* And therefore he produces the suit, &c.

Pack against Easterfield.

Kent, to wit. **J**OH*N* Pack complains of *Robert Easterfield* in the custody of the marshal, &c. for this, to wit, that whereas on the 23d day of *October* in the year of our Lord 1699 at *East Malling* in the county aforesaid, a certain discourse was moved and had between the same *John Pack* and the said *Robert Easterfield* of and concerning the buying and selling of hops; and upon that discourse then and there it was agreed between them, that the same *Robert* should pay to the same *John* a guinea of lawful money of *England*, and that the same *John* thereupon should appoint at what price he the said *Robert* should buy of the said *John* or should sell to him, at the election of the said *Robert*, a cart-load of good hops, and that the same *John* should appoint the condition of those hops and the place and time of the delivery of the same hops, and that upon that appointment the same *Robert* should buy of the same *John* or sell to him, at the election of the said *Robert*, the said cart-load of good hops: And the same *Robert* afterwards, to wit, the same day and year at *East Malling* aforesaid, according to that agreement, paid to the same *John* the said guinea, and thereupon the same *John* assumed upon himself, and to the same *Robert* then and there faithfully promised to perform that agreement in all things on his part to be performed, and in consideration thereof the said *Robert* assumed upon himself, and to the said *John* then and there faithfully promised, that he the same *Robert* would perform and fulfil that agreement in all things on his part to be performed and fulfilled: And the same *John* in fact says, that he the same *John* afterwards, to wit, the same day and year aforesaid, at *East Malling* aforesaid, in the presence and hearing of the said *Robert*, did appoint the condition aforesaid of a cart-load of good hops, to be hops well picked and well dried, and the price of the said cart-load of good hops to be 5*l.* 10*s.* a hundred for every hundred weight thereof, and that the said cart-load of good hops should be delivered between the 23d day of *October* in the year aforesaid and the 25th day of *March* then next following, at the key of one *John Rice* in *Newisbe* in the parish of *East Malling* aforesaid in the county aforesaid, or at *Milbale* in the parish of *Aylisford* in the county aforesaid; and thereupon the said *Robert*, to wit, the same day and year aforesaid, at *East Malling* aforesaid in the county aforesaid, made his election to buy of the same *John* a cart-load of good hops aforesaid, well picked and well dried, at that rate and price, and 5*s.* in part of payment for the cart-load of good hops aforesaid then and there in hand to the same *John* paid: And the same *John* afterwards, and before the said 25th day of *March* in the year aforesaid, to wit, the fifth day of *March* in

Colloquium.

Assumpsit on
an agreement
to buy or sell
hops.Pract. Reg.
111.

in the year of our Lord 1699 aboveſaid, at the ſaid key of the ſaid *John Rice* in *Newitt* aforeſaid in the pariſh of *Eaſt Malliſg* aforeſaid, delivered to the uſe of the ſaid *Robert* a cart-load of good hops well picked and well dried, whereby the ſaid *Robert* five pounds and ten ſhillings for every hundred weight of the ſaid twenty hundred weight, the ſaid five ſhillings in hand paid being deducted, in the whole amounting to one hundred and nine pounds and fifteen ſhillings to the ſaid *John*, according to the agreement aforeſaid, ought to have paid: And whereas alſo the ſaid *John* afterwards, to wit, the ſaid twenty-third day of *October* in the year aforeſaid, at *Eaſt Malliſg* aforeſaid in the county aforeſaid, at the ſpecial inſtance and requeſt of the ſaid *Robert*, had ſold and delivered to the uſe of the ſaid *Robert* one other cart-load of hops well picked and dried, the ſaid *Robert* in conſideration thereof afterwards, to wit, the ſame day and year laſt aforeſaid, at *Eaſt Malliſg* aforeſaid in the county aforeſaid, aſſumed upon himſelf, and to the ſaid *John* then and there faithfully promiſed, that he the ſaid *Robert* all ſuch ſums of money, as the ſaid cart-load of hops laſt mentioned at the time of the ſale and delivery thereof was reaſonably worth, to the ſame *John* would well and faithfully pay and content: And the ſame *John* in fact ſays, that the ſaid cart-load of hops laſt mentioned, at the ſaid time of the ſale and delivery of the ſame, was reaſonably worth one hundred and ten pounds of like lawful money of *England*, to wit, at *Eaſt Malliſg* aforeſaid in the county aforeſaid, whereof the ſaid *Robert* afterwards, to wit, the ſame day, &c. aforeſaid, there had notice: And whereas alſo the ſaid *Robert* afterwards, to wit, the ſaid twenty-third day of *October* in the year aforeſaid, at *Eaſt Malliſg* aforeſaid in the county aforeſaid, was indebted to the ſaid *John* in other hundred and ten pounds of like lawful money of *England*, for another cart-load of hops to the ſame *Robert* by the ſaid *John* before that time ſold and to the uſe of the ſaid *Robert* delivered; and ſo therein being indebted the ſaid *Robert* afterwards, to wit, the ſame day and year aforeſaid, at *Eaſt Malliſg* aforeſaid in the county aforeſaid, in conſideration thereof aſſumed upon himſelf, and to the ſame *John* then and there faithfully promiſed, that he the ſame *Robert* the ſaid hundred and ten pounds laſt mentioned, to the ſame *John*, when he ſhould be thereunto required, well and faithfully would pay and content: Nevertheless the ſaid *Robert* his ſeveral promiſes and aſſumptions aforeſaid not regarding, but contriving and fraudulently intending the ſame *John* in this behalf craftily and ſubtilly to deceive and defraud, the ſaid ſeveral ſums of money or any penny thereof to the ſame *John* hath not paid, altho' to pay him them the ſame *Robert* by the ſaid *John* was afterwards, to wit, the firſt day of *May* in the year of the Lord 1700, at *Eaſt Malliſg* aforeſaid in the county aforeſaid, required, but to pay him them hitherto hath altogether reſuſed, and yet doth reſuſe, to the damage of the ſaid *John* three hundred pounds. And therefore he produces the ſuit, &c.

Colepepyr againſt *Tooke*.

Kent, to wit. **W**illiam *Tooke* late of *London* Gent. was attached to answer to *Thomas Colepepyr* Bart. in a plea of treſpaſs on the caſe: And whereupon the ſaid *Thomas* by *Robert Saunders* his attorney complains, that whereas on the twentieth day of *Auguſt* in the eleventh year of the reign of the Lord *William* the Third now King of *England*, &c. at *Aylesford* in the county aforeſaid, a certain diſcourſe was had and moved between the ſaid *William* and *Thomas* of and concerning the hops of the ſaid *Thomas* then and there dried and bagged, and the hops of the ſaid *Thomas* then and there picked, and the hops of the ſaid *Thomas* then and there growing on the hop-ground of the ſaid *Thomas* then and there in his occupation, and upon that diſcourſe then and there, in conſideration of one ſhilling by the ſaid *William* to the ſame *Thomas* in hand paid in part of payment, and alſo that the ſaid *Thomas* would dry and bag all the hops of the ſaid *Thomas* then and there picked, and alſo would pick, dry and bag all the hops of the ſaid *Thomas* which then and there grew upon the hop-ground of him the ſaid *Thomas* then and there in the occupation of him the ſaid *Thomas*, and the hops which then were dried and bagged, and alſo the hops which then were picked and ſhould be bagged, and alſo the hops which then were growing upon the ſaid hop-ground then and there in the occupation of the ſaid *Thomas* as aforeſaid, ſhould weigh off to the uſe of the ſaid *William* at the *Talbot Inn* ſituate at *Southwark* in the county of *Surry*, on or before the nativity of our Lord *Chriſt* then next following, the ſaid *William* then and there aſſumed upon himſelf, and to the ſaid *Thomas* then and there faithfully promiſed, that he the ſaid *William* the ſaid hops there would accept, and would pay to the ſaid *Thomas* the ſum of eight pounds of lawful money of *England* for every hundred pounds

Assumpsit to deliver picked hops of such a growth.

pounds thereof, and so according to the same rate for a less quantity thereof: And in fact the same *Thomas* says, that he the said *Thomas* afterwards, to wit, the sixth day of *December* in the eleventh year above said, at *Aylesford* afore said, bagged the hops which the said twenty-eighth day of *August* in the year above said were picked, and then and there picked, dried and bagged all the hops of him the said *Thomas*, which on the said twenty-eighth day of *August* in the year above said were growing upon the hop-ground of him the said *Thomas* then in his occupation, and the several hops afore said weighed off to the use of him the said *William* at the *Talbot Inn* situate in *Southwark* afore said, and that they amounted to eighty-seven hundred and twenty-one pounds, and that, deducting the said one shilling in hand paid, they amounted according to the rate afore said to the sum of seven hundred and thirteen pounds and nine shillings, and thereof the said *Thomas* then and there to the same *William* gave notice, and them to the said *William* there offered to deliver, and the same *William* then and there required to accept: Nevertheless the said *William* his promise and assumption afore said in form afore said made not regarding, but contriving and fraudulently intending the same *Thomas* in this behalf craftily and subtilly to deceive and defraud, the said seven hundred and thirteen pounds and nine shillings to the same *Thomas* has not yet paid, nor him therefore hitherto any way contented, although the same *William* by the said *Thomas* to do it afterwards, to wit, the first day of *February* in the eleventh year above said, at *Maidstone* in the county afore said was required, but the said *William* the same to him yet to pay or therefore any way to content altogether hath refused, and yet doth refuse, to the damage of the said *Thomas* nine hundred pounds. And therefore he produces the suit, &c.

Hall and Stanley.

Assumpsit on a special agreement to deliver hops at a certain place.

Daniel Hall complains of *Thomas Stanley* in the custody of the marshal, &c. for this, to wit, that whereas on the twenty-second day of *August* in the twelfth year of the reign of the Lord *William* the Third now King of *England*, &c. at *London* afore said, to wit, in the parish of *St. Mary-le-bow* in the ward of *Cheape*, a certain discourse was had and moved between the said *Daniel* and *Thomas* of and concerning hops of that year's growth in the county of *Essex*, and upon that discourse then and there, in consideration of one shilling by the said *Thomas* to the said *Daniel* in hand paid in part of payment and four pounds and nineteen shillings, abating only the said one shilling for every hundred weight of one cart-load of *Chapman's* hops of the growth of the county of *Essex* in the year above said, to be paid on the delivery of those hops by the said *Daniel* to him the said *Thomas* at *Sturbridge Fair* in the parish of *Barnewell* in the county of *Cambridge*, on the thirteenth day of *September* then next following by twelve of the clock of the same day, the said *Thomas* assumed on himself, and to the said *Daniel* then and there faithfully promised, that he the same *Thomas* the said one cart-load of hops at the place, day and hour afore said would accept, and then and there would pay to the same *Daniel* so much money as the said cart-load of hops would amount unto at the rate of four pounds and nineteen shillings, abating only the said one shilling before in hand paid: And in fact the same *Daniel* says, that he afterwards, to wit, the said thirteenth day of *September* in the twelfth year above said, by twelve of the clock of the same day, had a cart-load of *Chapman's* hops of the growth of the county of *Essex* in the year above said, at the said *Sturbridge Fair* in the parish of *Barnewell* afore said in the county afore said, and those hops then and there weighed, and that those hops amounted to twenty hundred weight, and the same *Daniel* was then and there ready to deliver the hops afore said to the said *Thomas* at the price afore said according to the agreement afore said: Nevertheless the said *Thomas* his promise and assumption afore said in form afore said made not regarding, but contriving and fraudulently intending him the said *Daniel* in this behalf craftily and subtilly to deceive and defraud, the said twenty hundred weight of hops amounting at the rate afore said to ninety-eight pounds and nineteen shillings, abating the said one shilling before in hand paid, of the same *Daniel* then and there to receive absolutely refused, nor the said ninety-eight pounds and nineteen shillings or any penny thereof to the same *Daniel* hath paid, nor him for the same hath any way contented, but to do it, although often required, hath altogether refused, and yet doth refuse: And whereas also the said *Thomas*, on the fourteenth day of *September* in the twelfth year above said, at *London* afore said in the parish and ward afore said, was indebted to the said *Daniel* in one hundred pounds of lawful money of *England* for hops, by the said *Daniel* to the same *Thomas* at the special instance and request of him the said *Thomas* before that time there sold, and so therein being indebted the same *Thomas* in

Breach.

Assumpsit for hops sold.

confi-

consideration thereof assumed upon himself, and to the same *Daniel* then and there faithfully promised, that he the said *Thomas* the said 100 *l.* to the same *Daniel*, when thereunto afterwards he should be required, well and faithfully would pay and content: Nevertheless the said *Thomas* his promise and assumption last mentioned in form aforesaid made not regarding, but contriving and fraudulently intending him the said *Daniel* in this behalf craftily and subtilly to deceive and defraud, the said 100 *l.* or any penny thereof to the same *Daniel* hath not yet paid, nor him therefore hitherto any way contented, altho' the same *Thomas* by the same *Daniel* to do it was often required, but the said *Thomas* the same to him yet to pay, or therefore any way to content, hath altogether refused, and yet doth refuse, to the damage of the said *Daniel* 150 *l.* And therefore he produces the suit, &c.

Tooler against Archer.

London, to wit. **S**IMON *Archer* late of *Chelmsford* in the county of *Essex*, yeoman, was attached to answer to *George Tooler* in a plea of trespass on the case, &c. On an agreement to deliver hops of such a year's growth. And whereupon the same *George* by *B. T.* his attorney complains, why whereas on the first day of *October* in the year of the Lord 1700 at *London* aforesaid, to wit, in the parish of *St. Mary le Bow* in the ward of *Cheape*, a certain discourse was had and moved between the same *George* and *Simon* of and concerning the buying and selling of hops, and upon that discourse it was then and there between them agreed, that the said *George* should sell to the same *Simon* a cart-load or twenty hundred weight of hops at the rate of six pounds for every hundred weight of those hops, the said hops to be of the next middle growth of the county of *Essex*, to wit, of the year of the Lord 1701, and to be delivered in *London* on the feast-day of *St. Michael* the Archangel in the year last mentioned, of which said price the same *Simon* the day, year and place first mentioned in hand paid to the said *George* one shilling; and the said *Simon* the same day, year and place above first mentioned, in consideration that the said *George* had assumed upon himself, and to the same *Simon* had then and there faithfully promised, that he the same *George* that agreement in all things on his part to be performed well and faithfully would perform, assumed upon himself, and to the same *George* then and there faithfully promised, that he the same *Simon* the agreement aforesaid in all things on his part to be performed well and faithfully would perform: And the same *George* in fact says, that he the same *George* afterwards, to wit, on the feast-day of *St. Michael* the Archangel in the year of the Lord 1701 aforesaid, brought out of the county of *Essex* aforesaid twenty hundred weight of hops of the next middle growth, after the agreement aforesaid, of the county of *Essex* aforesaid, and them on the same feast-day delivered at *London* aforesaid in the parish and ward aforesaid in a certain place there called *Leaden-hall*; and thereof the said *George* the same day and year, at the parish and ward aforesaid, to the said *Simon* gave notice; and the said *George* the said twenty hundred weight of hops in the said place called *Leaden-hall* then and there left, and the said twenty hundred weight of hops from thenceforth continually hitherto have remained ready to be carried away by the said *Simon* at his will: Nevertheless the said *Simon* his promise and assumption aforesaid not regarding, but contriving and fraudulently intending the same *George* in this behalf craftily and subtilly to deceive and defraud, those hops to accept, or to the said *George* for the same according to his agreement aforesaid to pay, altogether hath refused, and yet doth refuse, altho' to do this by the same *George* afterwards, to wit, the same day and year aforesaid, at *London* aforesaid in the parish and ward aforesaid, he was required, but the said *Simon* the same hitherto to accept and him to pay hath altogether refused, and yet doth refuse, to the damage of the said *George* 300 *l.* And therefore he produces the suit, &c.

Startup and Dodderidge.

Bellum, to wit. **R**OBERT *Startup* complains of *John Dodderidge*, clerk, in a plea of Case by the occupier against the rector for not taking away tithe hay set out. trespass on the case, and there are pledges to prosecute, to wit, *John Doe* and *Richard Roe*: And whereupon the same *Robert* by *Edward Purfield* his attorney complains, that whereas the said *John* 23d day of *June* in the third year of the reign of the Lady *Anne* now Queen of *England*, &c. and long before and continually afterwards hitherto was and yet is rector of the parochial church of *Whittington* in the county of *Suffex* and within the jurisdiction of this court: And whereas also the tithes of corn, grain and hay within the parish aforesaid from time to time growing, renewing and arising are payable, and for time out of mind were payable to the rector of the church aforesaid for the time being, and the proprietors of any corn,

corn, grain and hay within the parish aforesaid growing, renewing and arising, always used, were accustomed and ought to divide, separate, set out and leave a tenth of the corn, grain and hay from the nine parts thereof, to the use of the rector of the church aforesaid for the time being; which tithes so as aforesaid divided, separated, set out and left the rector of the church aforesaid for the time being at his proper cost and charge within a convenient time after the division, separation, setting off and leaving the said tithes, and notice thereof to him given, was used and ought to carry away from the lands on which such tithes grew, renewed and arose: And whereas also the said *Robert* on the 24th day of *June* in the said third year of the reign of our Lady *Anne* now Queen of *England*, &c. and long before and continually afterwards hitherto was and yet is possessor and occupier of a close of land called *The King's Hill*, otherwise *Kingsland Meadow*, lying in *Whatlington* aforesaid and within the jurisdiction aforesaid, containing by estimation 18 acres; and so thereof being possessed the same *Robert* afterwards, to wit, the 28th day of *June* in the year aforesaid the grass upon the said 18 acres of land lying at *Whatlington* aforesaid and within the jurisdiction of the court aforesaid, growing, renewing and arising, mowed and into cocks then and there made and put; and after the making of the same into cocks, the same *Robert* then and there a tenth of the same from the nine parts thereof in due manner divided, separated, set out and left for the use of the said *John* then and yet rector of the church aforesaid: And also the same *Robert* thereof afterwards, to wit, the 29th day of *June* in the year aforesaid at *Whatlington* aforesaid and within the jurisdiction of the court aforesaid, to the said *John* being then and yet rector of the church aforesaid gave notice: Nevertheless the said *John* of the premisses not ignorant, but contriving and maliciously intending the said *Robert* to deprive and hinder from having and receiving the profits of the close aforesaid, the tenth of the hay aforesaid, to wit, five and twenty cocks of hay so as aforesaid divided, separated, set out and left for the tithe of the hay, from the said close did not carry away, but the said twenty-five cocks of hay upon the close aforesaid for a long time, to wit, from the said 29th day of *June* until the 26th day of *August* then next following, permitted to stand and remain, whereby the same *Robert* the profit of the same close for the same time totally lost, to the damage of the said *Robert* 5*l.* And therefore he produces the suit, &c.

Winter and Wiberg.

Assumpsit against one executor for goods sold the testator after outlawry of the two other executors.
Pract. Reg.
109, 120.

London, to wit. *Catharine Wiberg* late of *London* spinster, executrix of the testament of *Thomas Wiberg* deceased, was attached to answer unto *George Winter* in a plea of trespass on the case, &c. And whereupon the same *George* by *Richard H.* his attorney complains, why whereas the said *Thomas* in his life-time, to wit, the first day of *April* in the year of the Lord 1717, at *London* aforesaid, to wit, in the parish of *St. Mary le Bow* in the ward of *Cheape*, was indebted to the same *George* in 20*l.* of lawful money of *Great Britain* for divers goods, wares and merchandizes of the said *George*, by him the said *George* to the same *Thomas* at the special instance and request of the said *Thomas* before that time sold and delivered; and so therein being indebted the said *Thomas* in his life-time, in consideration thereof afterwards, to wit, the day and year aforesaid, at *London* aforesaid in the parish and ward aforesaid, assumed upon himself, and to the same *George* then and there faithfully promised, that he the said *Thomas* in his life-time the said 20*l.* to the same *George*, when thereto afterwards he should be required, well and faithfully would pay and content: Nevertheless the said *Thomas* in his life-time his promise and assumption aforesaid, so as aforesaid to the same *George* made, not regarding, the said sum of money, or any penny thereof, to the same *George* hath not paid; and the said *Catharine* and *Isabella Wiberg*, and *Charles Wiberg*, co-executors with the said *Catharine* of the will aforesaid of the said *Thomas*, which said *Isabella* and *Charles*, by process in the court of the Lord the King here by writ original by the said *George* against the said *Isabella* and *Charles* in the cause aforesaid lately obtained, are outlawed and waived, after the death of the said *Thomas*, and before the outlawry and waiving aforesaid against them promulged, altho' the said *Catharine* and the said *Isabella* and *Charles*, (who as aforesaid are outlawed and waived) to wit, on the first day of *March* in the year of the Lord 1718, and often afterwards, at *London* aforesaid in the parish and ward aforesaid, by the said *George* were required, the said sum of money have not paid, nor hath either of them paid, but the same to him hitherto to pay have altogether refused, and the said *Catharine* doth yet refuse, to the damage of the said *George* 20*l.* And therefore he produces the suit, &c.

Almerick

Midd^s, to wit. **A**lmerick de Coursey late of *Isleworth* in the county aforesaid Esq; Baron of *Kinsale* in the kingdom of *Ireland*, was attached to answer unto *Francis Compion* Knt. in a plea of trespass on the case, &c. And whereas the said *Francis* by *J. B.* his attorney complains, that whereas the said *Almerick*, on the first day of *May* in the year of the Lord 1700, at *Islington* in the county aforesaid, in consideration that the same *Francis*, at the special instance and request of the said *Almerick*, had before that time lent to the same *Almerick* 392 l. 10 s. of lawful money of *England*, assumed upon himself, and to the said *Francis* then and there faithfully promised, that he the same *Almerick* the said 392 l. 10 s. to the said *Francis*, when he should thereunto afterwards be required, well and faithfully would pay and content: Nevertheless the said *Almerick*, &c. (to) And therefore he produces the suit, &c.

Assumpsit by original in C. B. against a peer of *Ireland* for money lent.

Midd^s, to wit. **J**OHN Harris complains of *Frederick Williams* Esq; Earl *Lifford* in the kingdom of *Ireland* in custody of the marshal, &c.

Otherwise in K. B.

Midd^s, to wit. **T**HE right honourable *Thomas* Earl of *Scaford* was attached to answer unto *John Dandi*, &c. (as in others).

Otherwise against a peer of *Scotland* since the union.

6 Ann. c. 14.

THE right honourable *Thomas* Lord *Osborne* was attached to answer unto *John Thomas* in a plea of trespass on the case, &c. And whereon, (as in others).

Otherwise against the son of a peer of *England* called up to the house of Lords by writ.

Note; A peer cannot be sued in B. R. by bill, by reason he is therein alledged to be in the custody of the marshal.

Mathew against Hodge.

Suffex, to wit. **T**homas Mathew the elder complains of *William Hodge* in the custody of the marshal, &c. for this, to wit, that whereas the said *William*, 26th day of *November* in the fourth year of the reign of the Lord and Lady *William* and *Mary* now King and Queen of *England*, &c. at the parish of *St. Thomas* in *Cliva juxta Lewes* in the county aforesaid, (he the said *Thomas* then being a civil officer, to wit, a headborough for the half hundred of *Loxfield Dorset* in the county of *Suffex* aforesaid,) unjustly, unlawfully and maliciously billeted *Christopher Norman* and *Richard Taper*, two dragoons of the said Lord and Lady the King and Queen, upon him the said *Thomas Mathews*, (he the said *Thomas* then being a subject of the Lord and Lady the King and Queen of *England*, and an inhabitant in the parish, county and half hundred aforesaid,) without the consent of the said *Thomas* in that behalf had, which said dragoons, from the said twenty-sixth day of *November* until the twentieth day of *May* then next following, against the will and without the consent of the said *Thomas*, by reason of the billeting aforesaid by him the said *William* upon him the said *Thomas* imposed were quartered, against the form of the statute in that case made and provided; by pretence of which said billeting and quartering the same *Thomas* was hindered in the quiet use and occupation of his house aforesaid for the whole time aforesaid, and was compelled to expend divers sums of money for the support and maintenance of the dragoons aforesaid for the whole time aforesaid; whereby the said *Thomas* says that he is prejudiced, and has damage to the value of 40 l. And therefore he produces the suit, &c.

Case against a headborough for billeting soldiers on the plaintiff without consent.

Mansell and Stamford and others.

York, to wit. **E**dward Mansell, vicar of the church of *Ecclesfield* in the county aforesaid, complains of *John Stamford* Gent. *Edward Carver* clerk and *Hester Berkley* widow, executors of the testament and last will of *Thomas Wright* clerk, late vicar of the said church of *Ecclesfield* aforesaid, in the custody of the marshal, &c. for this, to wit, that whereas, according to the law and custom of this kingdom of *England* hitherto obtained and approved, all and singular prebendaries, rectors and vicars, of the same kingdom for the time being, are bound to repair and support all and singular the houses and buildings of their prebends, rectories and vicarages, and to leave the same to their successors repaired and supported: And if such prebendaries,

Case by the vicar against the executors of the last vicar for dilapidations.

Custom of
England set
forth.
Pract. Reg.
461.
Clergyman's
Law 312.

Postea.

bendaries, rectors and vicars, the houses and buildings aforesaid to such their successors as aforesaid have not left repaired and supported, but have permitted them to be unrepaired and dilapidated, the executors of the said prebendaries, rectors and vicars, after their deaths, out of the goods and chattels of the same testators are bound to satisfy to such successors so much money as is sufficient for the reparation and necessary rebuilding of those houses and buildings: And altho' the said *Thomas Wright*, late vicar of the church of *Ecclesfield* aforesaid, the houses and buildings of the said vicarage at the time of his death left unrepaired and dilapidated, so that 200 *l.* are not sufficient to repair the said houses and buildings: And although the same *John, Edward Carver* and *Hester*, after the death of the said *Thomas*, to wit, the first day of *July* in the fifth year of the reign of the Lord and Lady *William* and *Mary* now King and Queen of *England*, &c. at *Ecclesfield* aforesaid, were required to pay to the same *Edward Mansell* so much money as was sufficient for the reparation of the houses and buildings aforesaid: Nevertheless the same *John, Edward Carver* and *Hester*, in any wise to satisfy the same *Edward Mansell* for the irreparations and dilapidations aforesaid have altogether refused, and yet do refuse, to the damage of the said *Edward Mansell* 200 *l.* And therefore he produces the suit, &c.

The Duke of Newcastle against Jermyn.

Assumpsit on a
special agree-
ment for
wood.

Averment of
the delivery of
the wood.

Indebitatus for
wood.

Quant' mer.

Averment.

Count for
412 *l.* 10 *s.*
for other
wood.

THE most noble *John Duke of Newcastle* complains of *John Jermyn* Gent. in the custody of the marshal, &c. for this, to wit, that whereas on the first day of *May* in the year of the Lord 1692, at *Mansfield* in the county aforesaid, a certain discourse was had and moved between the same Duke and the said *John Jermyn* of and concerning the sale of a great quantity of wood by the said Duke to the said *John Jermyn*, and upon that discourse it was then and there agreed between them, that the same Duke should sell and deliver to the said *John Jermyn* 1500 cords of wood at the rate and price of 5 *s.* 6 *d.* for every cord of the said wood: And the same *John Jermyn*, in consideration that the said Duke then and there at the special instance and request of the said *John Jermyn* did sell to the said *John Jermyn* the said 1500 cords of wood at the said rate and price of 5 *s.* 6 *d.* for every cord of the said wood, and did assume upon himself, and to the same *John Jermyn* then and there faithfully promise, to deliver to the same *John Jermyn* the said 1500 cords of wood, he the same *John Jermyn* assumed upon himself, and to the said Duke then and there faithfully promised, that he the said *John Jermyn* 5 *s.* 6 *d.* for every cord of the said wood, which according to that rate amounted in the whole to 412 *l.* 10 *s.* to the same Duke would well and faithfully pay and content: And the same Duke in fact says, that he, giving credit to the promise and assumption of the said *John Jermyn* in form aforesaid made, afterwards, to wit, the first day of *October* in the year of the Lord 1692 aforesaid, at *Mansfield* aforesaid in the county aforesaid, did deliver to the said *John Jermyn* the said 1500 cords of wood: And whereas also the said *John Jermyn* afterwards, to wit, the said first day of *October* in the year of the Lord 1692 aforesaid, at *Mansfield* aforesaid in the county aforesaid, was indebted to the said Duke in 500 *l.* for a certain other parcel of wood by the said Duke to the said *John Jermyn* and at his instance and request before that time sold and delivered; and so therein being indebted the said *John Jermyn* afterwards, to wit, the same first day of *October* in the year of the Lord 1692 aforesaid, at *Mansfield* aforesaid in the county aforesaid, in consideration thereof assumed upon himself, and to the same Duke then and there faithfully promised, that he the said *John Jermyn* the said 500 *l.* to the same Duke, when he should be therunto required, well and faithfully would pay and content: And whereas also the said *John Jermyn* afterwards, to wit, the same first day of *October* in the year of the Lord 1692 aforesaid, at *Mansfield* aforesaid in the county aforesaid, in consideration that the said Duke at the like special instance and request of the said *John Jermyn* had then and there sold and delivered to the said *John Jermyn* another parcel of wood, to wit, another 1500 cords of wood, assumed upon himself, and to the same Duke then and there faithfully promised, that he the said *John Jermyn* so much money, as the wood last mentioned at the time of the sale and delivery thereof was reasonably worth, to the same Duke, when he should be thereto likewise required, would well and faithfully pay and content: And the same Duke in fact says, that the said wood last mentioned, at the time of the sale and delivery of the same, was reasonably worth other 500 *l.* whereof the said *John Jermyn* afterwards, to wit, the said first day of *October* in the year of the Lord 1692 aforesaid, at *Mansfield* aforesaid in the county aforesaid, had notice: And whereas also the said *John Jermyn* afterwards, to wit, the same first day of *October* in the year of the Lord 1692 aforesaid, at *Mansfield* aforesaid in the county aforesaid, was indebted to the same Duke in other 412 *l.* 10 *s.* for other wood, to wit, for other 1500 cords of wood by the said Duke to the said *John Jermyn*, and at his instance and request, at the rate and price of 5 *s.* 6 *d.*

5 s. 6 d. for every cord of the said wood last mentioned before that time sold and delivered; and being so therein indebted the said *John Jermyn* afterwards, to wit, the same first day of *October* in the year of the Lord 1692 above said, at *Mansfield* above said in the county above said, in consideration thereof assumed upon himself, and to the same Duke then and there faithfully promised, that he the said *John Jermyn* the said 412 l. 10 s. last mentioned to the same Duke, when he should be thereunto afterwards likewise required, would well and faithfully pay and content: And whereas also the said *John Jermyn* afterwards, to wit, the same first day of *October* in the year of the Lord 1692 above said, at *Mansfield* above said in the county above said, accounted with the said Duke for several other sums of money by the said *John Jermyn* to the said Duke before that time due, and to the same Duke then being in arrear and unpaid; and upon that account the said *John Jermyn* was found in arrear to the said Duke in other 412 l. 10 s. and so being therein found in arrear, the said *John Jermyn* afterwards, to wit, the said first day of *October* in the year of the Lord 1692 above said at *Mansfield* above said in the county above said, in consideration thereof assumed upon himself, and to the same Duke then and there faithfully promised, that he the said *John Jermyn* the said 412 l. 10 s. last mentioned to the same Duke, when he should be thereto afterwards likewise required, well and faithfully would pay and content: Nevertheless the said *John Jermyn* his several promises and assumptions above said in form above said made not regarding, but contriving and fraudulently intending the same Duke in this behalf craftily and subtilly to deceive and defraud, the said several sums of money, or any penny thereof, to the same Duke, according to his several promises and assumptions above said, hath not yet paid, nor him for the same hath hitherto in any wise contented, altho' to do it the said *John Jermyn* was afterwards, to wit, the same first day of *October* in the year of the Lord 1692 above said at *Mansfield* above said in the county above said by the said Duke required, but to pay him them, or him for the same hitherto in any wise to content, hath altogether refused, and yet doth refuse, to the damage of the said Duke 550 l. And therefore he produces the suit, &c.

Midd., to wit. **R**obert S. Gent. one of the clerks of *Samuel Asty*, Knt. the coroner and attorney of the now Lord the King, complains of *Henry B. Gent.* another clerk of the said *Samuel Asty*, Knt. the coroner and attorney of the said now Lord the King present here in court in his proper person, for this, to wit, that whereas the said *Henry* the first day of *January* in the year of the Lord 1699, at *Westminster* in the county above said was indebted to the said *Robert* in two guineas of the value of 43 s. of lawful money of *England*, for so much money of the money of him the said *Robert* by the said *Henry* to the use of him the said *Robert* before there had and received; and so being therein indebted he the said *Henry* in consideration thereof afterwards, to wit, the same day and year, at *Westminster* above said in the county above said, assumed upon himself, and to the same *Robert* then and there faithfully promised, that he the said *Henry* the said two guineas to the same *Robert*, when he should thereto afterwards be required, well and faithfully would pay and content: And whereas also the said *Henry* afterwards, to wit, the same day, year and place, was indebted to the same *Robert* in 5 l. of lawful money of *England*, for so much money of him the said *Robert* by him the said *Henry* to the use of him the said *Robert* before there had and received; and being so therein indebted the said *Henry* then and there in consideration thereof assumed upon himself, and to the said *Robert* then and there faithfully promised, that he the said *Henry* the said 5 l. to the same *Robert*, when he should be thereto afterwards required, would well and faithfully pay and content: Nevertheless the said *Henry* his promises and assumptions above said not regarding, but contriving and fraudulently intending the same *Robert* in this behalf craftily and subtilly to deceive and defraud, the said two guineas, and the said 5 l. or any part thereof, to the said *Robert* hath not yet paid, altho' to do it the said *Henry* afterwards, to wit, the 10th day of *January* in the year of the Lord above said, and often afterwards, at *Westminster* in the county above said by the same *Robert* was required, but the same *Henry* to pay him them, or him for the same hitherto in any wise to content, hath altogether refused, and yet doth refuse, to the damage of the said *Robert* 20 l. And therefore he produces the suit, &c.

Gibson and Ousnam.

Kent, to wit. **R**ichard Gibson complains of *John Ousnam*, being in the custody of the marshal of the *Marshalsea* of the Lady the Queen, before the Queen herself, for this, to wit, that whereas the said *Richard* being a person of a good name, estate, credit and reputation, among his neighbours and others whomsoever with whom he had dealing, the said *John* 8th day of *March* in the 9th year of the reign of the Lord *William* the Third, late King of *England*, &c. at the parish of *Maidstone* in the county of *Kent* above said, contriving and intending him the said *Richard* by colour of law to oppress

*Infinitum com-
potes.
Pract. Reg.
110.*

*Assumpsit by a
clerk of the
crown office
against ano-
ther clerk of
that office for
money depo-
sited in his
hands on a
wager.*

*Count for two
guineas re-
ceived by de-
fendant to
plaintiff's use.*

*Case for ar-
resting the
plainiff in
the mayor of
Maidstone's
court without
cause of ac-
tion.*

press

Salk. 14, 15,
727.

Averment.

press and in prison to keep and detain, at the parish of *Maidstone* aforesaid falsely, fraudulently, unduly and maliciously, in the name of the said *John*, a certain plaint against him the said *Richard* in a plea of trespass on the case, to the damage of the said *Richard* 12 l. at the suit of the said *John* in the court of record held before *George Peirce*, Gent. then mayor of the town and parish aforesaid, according to the custom in the same town used time out of mind within the jurisdiction of the court aforesaid, without any just cause levied and affirmed; and the same *Richard*, by virtue of the said plaint, within the jurisdiction of the same court, to be arrested and imprisoned, and in prison aforesaid to be detained for the space of three days then next following, caused and procured, where in truth the said *John* at the time of levying and affirming the plaint aforesaid, or at the time of the arrest and imprisonment aforesaid, had no just cause of action against the said *Richard* within the jurisdiction of the court aforesaid; whereby the said *Richard* says, that he is prejudiced, and has damage to the value of 100 l. And therefore he produces the suit, &c.

Harris and Wright, Esq;

Assumpsit to
try the title
to an office.
Count for
money re-
ceived to
plaintiff's use.
Parl. Rep.
158 to 164,
111 to 127.

Midd', to wit. **E**zekiel *Wright* late of *London* Esq; was attached to answer to *John Harris* late of *London* Esq; in a plea of trespass on the case: And whereupon the same *John* by *J. B.* his attorney complains, why whereas he the same *Ezekiel* the first day of *September* in the 13th year of the reign of the Lord *William* the Third now King of *England*, &c. at *Westminster* in the county aforesaid, was indebted to the said *John* in 500 l. of lawful money of *England*, for so much money by the said *Ezekiel* to the use of the said *John* before then had and received; and being so therein indebted he the same *Ezekiel* in consideration thereof afterwards, to wit, the same day and year aforesaid, at *Westminster* aforesaid in the county aforesaid, assumed upon himself, and to the same *John* then and there faithfully promised, that he the same *Ezekiel* the said 500 l. to the same *John*, when he should be thereto afterwards required, well and faithfully would pay and content: Nevertheless the said *Ezekiel* his promise and assumption aforesaid not regarding, but contriving and fraudulently intending the same *John Harris* in this behalf craftily and subtilly to deceive and defraud, the said 500 l. or any penny thereof to the same *John* hath not yet paid, nor him for the same hath hitherto any ways contented, altho' to do it he the same *Ezekiel* afterwards, to wit, 2d day of *September* in the year aforesaid, at *Westminster* aforesaid by the same *John* was required; whereby the same *John* says, that he is prejudiced, and has damage to the value of 500 l. And therefore he produces the suit, &c.

Frith and Henley.

Quantum me-
rit for medi-
cines admini-
stred by him
to a third per-
son.

Midd', to wit. **R**obert *Frith* apothecary complains of *William Henley* in the custody of the marshal, &c. for this, to wit, that whereas the first day of *May* in the year of the Lord 1699, at *Westminster* in the county aforesaid, the same *Robert* at the special instance and request of the said *William* had administred, delivered and applied to one *Robert Emerton*, the apprentice of the said *William*, divers medicaments, medicines and medicinal potions, he the said *William* in consideration thereof afterwards, to wit, the same day and year aforesaid at *Westminster* aforesaid in the county aforesaid, assumed upon himself, and to the same *Robert Frith* then and there faithfully promised, that he the said *William* so much money for the said medicaments, medicines and medicinal potions, so as aforesaid administred, delivered and applied to the said *Robert Emerton*, the aforesaid apprentice of the same *William*, as he the said *Robert Frith* therefore reasonably deserved to have, to the same *Robert*, when he should be thereto afterwards required, would well and faithfully pay and content: And the same *Robert Frith* in fact says, that he the said *Robert* reasonably deserved to have for the said medicaments, medicines and medicinal potions, by him the said *Robert Frith* to the said *Robert Emerton* the apprentice so as aforesaid administred, delivered and applied, 3 l. 10 s. of lawful money of *England*, to wit, at *Westminster* aforesaid in the county aforesaid, whereof he the same *William* afterwards, to wit, the same day and year aforesaid, there had notice: And whereas also the said *William* the same day and year aforesaid at *Westminster* aforesaid in the county aforesaid was indebted to the said *Robert Frith* in other 3 l. 10 s. of lawful money of *England*, for money by the said *Robert Frith* to the use of the said *William* and at his special instance before then expended and laid out; and being so therein indebted the same *William* in consideration thereof afterwards, to wit, the day and year aforesaid, at *Westminster* aforesaid in the county aforesaid, assumed upon himself, and to the said *Robert Frith* then and there faithfully promised, that

that he the same *William* the 3*l.* 10*s.* last mentioned to the same *Robert Friib*, when he should be thereto afterwards required, would well and faithfully pay and content: Nevertheless the said *William* his several promises and assumptions aforesaid not regarding, but contriving and fraudulently intending the same *Robert Friib* in this behalf craftily and subtilly to deceive and defraud, the said several sums of money, or any penny thereof, to the same *Robert Friib* (altho' to do it he was by the said *Robert Friib* afterwards, to wit, the first day of *June* in the year of the Lord 1699 aforesaid, and often afterwards, at *Westminster* aforesaid in the county aforesaid required) hath not yet paid, or any ways for the same contented, but the said *William* hitherto to pay him them, or for the same any ways to content, hath altogether refused, and yet doth refuse, to the damage of the said *Robert* 20*l.* And therefore he produces the suit, &c.

Brown and Cary.

Midd, to wit. **J**oseph Brown doctor of physick complains of *Martha Cary*, otherwise *Kingston*, in the custody of the marshal, &c. for this, to wit, that whereas the said *Martha* on the sixth day of *June* in the year of the Lord 1706, at *Westminster* in the county of *Middlesex* aforesaid, was indebted to the same *Joseph* in 12*l.* of good and lawful money of *England*, for his work and labour by the said *Joseph* at the special instance and request of the said *Martha* before that time in and about the visiting, curing and healing the said *Martha* of certain diseases and pains wherewith the same *Martha* was sick and languished, applied and bestowed; and being so therein indebted the same *Martha* in consideration thereof afterwards, to wit, the same day and year aforesaid, at *Westminster* aforesaid in the county aforesaid, assumed upon herself, and to the same *Joseph* then and there faithfully promised, that she the same *Martha* the said 12*l.* to the same *Joseph*, when she should thereto afterwards be required, well and faithfully would pay and content: And whereas also the said *Martha* afterwards, to wit, the same day and year aforesaid at *Westminster* aforesaid in the county aforesaid, in consideration that he the said *Joseph*, at the like special instance and request of her the said *Martha* before the time last mentioned, other his work and labour had bestowed and applied in and about the visiting, curing and healing of the said *Martha* of certain other diseases and pains wherewith the said *Martha* had been sick and languished, assumed upon herself, and to the same *Joseph* then and there faithfully promised, that she the same *Martha* so much money, as he the said *Joseph* therefore reasonably deserved to have, to the same *Joseph*, when she should be thereto afterwards required, well and faithfully would content and pay: Nevertheless the said *Martha* her several promises and assumptions aforesaid in form aforesaid made not regarding, but contriving and fraudulently intending the said *Joseph* in this behalf craftily and subtilly to deceive and defraud, the said several sums of money, or any penny thereof, to the same *Joseph* hath not yet paid, or him for the same hath hitherto any ways contented, (altho' to do it the said *Martha* afterwards, to wit, 7th day of *January* in the year of the Lord 1706 aforesaid, and often afterwards, at *Westminster* aforesaid in the county aforesaid by the said *Joseph* was required,) but the same to the said *Joseph* hitherto to pay, or for the same any way to content, hath altogether refused, and yet doth refuse; whereby the same *Joseph* says that he is prejudiced, and has damage to the value of 30*l.* And therefore he produces the suit, &c.

Wright and Martine.

London, to wit. **B**ernard Wright complains of *George Martine* in the custody of the marshal, &c. for this, to wit, that whereas the said *George* on the fourth day of *June* in the year of the Lord 1696 at *London* aforesaid, to wit, in the parish of *St. Mary le Bow* in the ward of *Cheape*, in consideration that the same *Bernard* being then and there skilful in the art of physick would then and there, at the special instance and request of the said *George*, use and employ his best endeavours to heal and cure *Jane Martine*, wife of the said *George Martine*, of a certain infirmity of mind or lunacy with which the said *Jane* was then and there greatly disturbed in her mind, and grievously languished, and the said *Jane* restore to sanity of mind; assumed upon himself, and to the same *Bernard* then and there faithfully promised, that he the same *George* the sum of 10*l.* of lawful money of *England* to the same *Bernard* for his pains and industry in and about the healing and curing of the said *Jane* of the said infirmity, when that cure should be performed, and the said *Jane* should be restored to sanity of mind, well and faithfully would pay and content: And the same *Bernard* in fact says, that he giving credit to the promise and assumption of the said *George* in form aforesaid made, afterwards, to wit, the same day and year aforesaid, and at all necessary times then after, until and upon the 21st day of *September* in the year of the Lord aforesaid, at *London* aforesaid in the parish and ward aforesaid, his pains, labour and endeavour did use and employ

Assumpsit by a doctor in physick.

Quantum meruit.

Assumpsit by a physician for curing defendant's wife of a lunacy.

Averment.

Inadmittat' for
work and la-
bour and mo-
ney expended.

to heal and cure the said *Jane* of her infirmity of mind and lunacy aforesaid, and afterwards, to wit, the said 21st day of *September* in the year of the Lord aforesaid, at *London* aforesaid in the parish and ward aforesaid, the said cure there did perform, and the said *Jane* to sanity of mind did restore, and thereof the said *George* then and there had notice: And whereas also the said *George* afterwards, to wit, the said 21st day of *September* in the year of the Lord aforesaid, at *London* aforesaid in the parish and ward aforesaid, was indebted to the same *Bernard* in other 10 *l.* of like lawful money of *England*, as well for other work and labour of the said *Bernard*, by him the said *Bernard* for the said *George*, and at the special instance and request of the said *George*, before that time done and performed, as for divers sums of money of the said *Bernard*, by him the said *Bernard* at the like special instance and request of the said *George* for the same *George* before that time laid out and expended; and being so therein indebted the said *George* in consideration thereof afterwards, to wit, the same day and year last aforesaid, at *London* aforesaid in the parish and ward aforesaid, assumed upon himself, and to the same *Bernard* then and there faithfully promised, that he the same *George* the said 10 *l.* last mentioned to the same *Bernard*, when he should be thereto afterwards required, well and faithfully would content and pay: Nevertheless the said *George* his several promises and assumptions aforesaid in form aforesaid made not regarding, but contriving and fraudulently intending the same *Bernard* in this behalf craftily and subtilly to deceive and defraud, the said several sums of money, or any penny thereof, to the same *Bernard* hath not paid, nor him for the same, or any part thereof, hath any way contented, (altho' to do it the same *George* afterwards, to wit, the same day and year last aforesaid, at *London* aforesaid in the parish and ward aforesaid, was by the said *Bernard* required,) but to pay him them, or for the same any way to content, hath hitherto altogether refused, and yet doth refuse; whereby the same *Bernard* says that he is prejudiced, and hath damage to the value of 40 *l.* And therefore he produces the suit, &c.

Deacon and another and Fell.

Case by execu-
tors against
the master of
a ship for
goods trans-
ported by him
from *Guinea*
to *London* for
hire.

London, to wit. **W**illiam Deacon and Richard Staples, executors of the last will and testament of *William Goffe* deceased, complain of *John Fell* in the custody of the marshal, &c. for this, to wit, that whereas the said *William Goffe* in his life-time, to wit, the 10th day of *December* in the year of the Lord 1701, loaded in and upon a certain ship called the *Thomas and Elizabeth*, whereof the said *John* was then master, then riding in the river *Sherbro* in *Guinea* in *Africa* in parts beyonds the seas, the goods and merchandizes following, to wit, two tons and 300 pounds weight of red wood, 104 large elephants teeth weighing 2500 pounds three quarters of a hundred pounds and seventeen pounds, 59 small elephants teeth, weighing one hundred pounds three quarters of a hundred pounds and eleven pounds, to the value of 500 *l.* of lawful money of *England*, in good order and well conditioned, from thence to be transported, and by him the said *John Fell* to the said *William Goffe* at the port of *London* aforesaid to be delivered, the danger of the seas and the restraint of Princes excepted, at the rate of 6 *l.* by the ton, by the said *William Goffe* to the said *John* therefore to be paid: The said *John* in consideration of the premises afterwards, to wit, the same day and year aforesaid, at *London* aforesaid, to wit, at the parish of *St. Mary le Bow* in the ward of *Cheape*, assumed upon himself, and to the said *William* in his life-time then and there faithfully promised, that he the same *John* the goods and merchandizes aforesaid from thence would transport, and to the said *William Goffe* at the port of *London* well and faithfully would deliver in the like good order and well conditioned, the danger of the seas and restraint of Princes excepted: And altho' the ship aforesaid, with the goods and merchandizes aforesaid thereon loaded, afterwards, to wit, the 2d day of *March* in the year of the Lord aforesaid, at the port of *London* aforesaid, to wit, at the parish and ward aforesaid, safely arrived, and altho' the danger of the seas, or the restraint of Princes did not hinder, and altho' the said *William Goffe* in his life-time, and the said *William Deacon* and *Richard* always after his death and hitherto were ready to pay to the said *John* according to the rate of 6 *l.* by the ton, for the transportation of the goods and merchandizes aforesaid: Nevertheless the said *John* contriving and intending the said *William Goffe* in his life-time, and the said *William Deacon* and *Richard*, after the death of the said *William Goffe*, of the goods and merchandizes aforesaid craftily and subtilly to deceive and defraud, the goods and merchandizes aforesaid to the said *William Goffe* in his life-time, or to the same *William Deacon* and *Richard*, or either of them, after the death of the said *William Goffe*, hath not delivered, altho' the said *John* to deliver them to the said *William Goffe* afterwards, to wit, the said second day of *March* in the year of the Lord aforesaid, at *London* aforesaid in the parish and ward aforesaid, was required; and altho' the said *John* after the death of the said *William Goffe*, to wit, the second day of *April* in the year of the Lord 1702, at *London* aforesaid in the parish and ward aforesaid, to deliver them to the said *William Deacon* and *Richard* was required, but the same to deliver unto them hath hitherto altogether refused, and yet doth refuse; whereby the same *William Deacon* and

and *Richard* say they are prejudiced, and have damage to the value of 500*l.* And therefore they produce the suit, &c. And the same *William Deacon* and *Richard* produce here in court the letters testamentary of the said *William Goffe*, whereby it sufficiently appears to the court here, that the said *William Deacon* and *Richard* are executors of the will of the said *William Goffe* aforesaid, and thereof have the administration, &c.

Midd, to wit. **C**harles Lord C. executor of the will of *Dorothy Countess Dowager of Arran* deceased, was attached to answer *A. H. Gent.* one of the attornies of the court of the Lord the King of the Bench in a plea of trespass on the case, &c. And whereon the said *Anthony* in his proper person complains, that whereas the said Dowager in her life-time, to wit, the 13th day of *December* in the year of the Lord 1716 at *Westminster*, in consideration that the same *Anthony* (being then and long before and afterwards an attorney of the court of the said Lord the King of the Bench here, to wit, at *Westminster* aforesaid) at the special instance and request of the said Countess, several suits, causes and actions in Law and Equity, and divers difficult and important affairs for the said Countess, and according to her order and appointment, well, faithfully and industriously, had defended and solicited, and had managed, carried on, done and performed, and by that means great sums of money had laid out, deposited and paid, assumed upon herself, and to the said *Anthony* then and there faithfully promised, to pay to the same *Anthony* all such sums of money as the said *Anthony* so as aforesaid had laid out, deposited and paid, and what he for his fees, industry, care and labour in and about the premises, reasonably deserved to have: And the same *Anthony* in fact says, that he, before the said time of the promise and assumption aforesaid made, had by that means as is aforesaid laid out, deposited and paid, and for his fees, industry, care and labour in and about the premises, reasonably deserved to have of the said Countess divers sums of money, amounting in the whole to 46*l.* 19*s.* 9*d.* whereof the said Countess afterwards, to wit, the same day and year, at *Westminster* aforesaid, had notice: And whereas also the said Countess afterwards, to wit, the 14th day of *December* in the year aforesaid, at *Westminster* aforesaid, was indebted to the said *Anthony*, (being then and long before and afterwards an attorney of the court of the said Lord the King of the Bench aforesaid here,) in other 46*l.* 19*s.* 9*d.* for money by the said *Anthony* for the said Countess and at her request in and about several actions, causes and suits in law and equity, and the business of the said Countess before that time deposited, laid out and paid, and for his fees, industry, care and labour in and about the defence, solicitation, carrying on and management of the actions, causes, suits and business aforesaid, by him, on the behalf of the said Countess and at her request, before that time done and performed: And being so therein indebted the said Countess the same day and year aforesaid at *Westminster* aforesaid, in consideration thereof, assumed upon herself, and to the same *Anthony* then and there faithfully promised, that she the said Countess the same sum of money last mentioned to the same *Anthony* would well and faithfully pay and content: Nevertheless the said Countess in her life-time, and the said Lord after the death of the said Countess, the several promises and assumptions of the said Countess not regarding, but contriving and intending the same *Anthony* in this behalf craftily and subtilly to deceive and defraud, the said several sums of money, or any penny thereof, although often required, to the same *Anthony* have not paid or any way contented, but to pay him them have refused, and the said Lord to pay them to the same *Anthony* doth yet refuse, to the damage, &c.

Assumpsit by an attorney against a peer as executor, for his fees, &c. in law and equity, as attorney and solicitor for the testatrix.

Special re-tainer.

Quant' mer'.

Indebitat'.

Breach of promise. This judgment was reversed, the writ of inquiry being executed on a Sunday. Salk. 626.

Midd, to wit. **T**homas B. late of *London*, Gent. and *Hannah* his wife, were attached to answer to *George F.* in a plea of trespass on the case, &c. And whereon the said *George* by *Milo Baispoole* his attorney complains, why whereas the said *Hannah* while she was sole, to wit, the thirtieth day of *September* in the fourth year of the reign of the Lord *George* now King of *Great Britain*, at *Westminster* in the county aforesaid, was indebted to the said *George* in 130*l.* of lawful money of *Great Britain*, as well for the work, labour and care of the said *George*, about the funeral of one *Mary Whitlocke* widow deceased, by the said *George* before that time, at the special instance and request of the said *Hannah*, while she was sole, done and performed, as for divers materials and things necessary by the said *George*, at the like special instance and request of the said *Hannah* while she was sole, and at the costs and charges of the said *George* on that account found and provided, and at and about that funeral used and employed: And being so therein indebted the same *Hannah* while she was sole, in consideration thereof, afterwards, to wit, the same day and year, at *Westminster* aforesaid in the county aforesaid, assumed upon herself, and to the same *George* then and there faithfully promised, that she

Indebitat' against a third person dum sola for the charges of a funeral. Salk. 731.

She the said *Hannab* the said 130*l.* to the said *George*, when she should be thereto afterwards required, well and faithfully would pay and content: And whereas also the said *Hannab* while she was sole, to wit, the day and year abovesaid, at *Westminster* abovesaid in the county abovesaid, in consideration that the said *George* had before that time, at the like instance and request of the same *Hannab* while she was sole, his work, care and labour in and about the funeral of a certain other *Mary Whitlocke* widow deceased, sustained and supplied, and at the like instance and request of the said *Hannab* divers materials and things necessary on that account at the costs and charges of the said *George* had found and provided, and the same materials and things necessary last mentioned in and about the funeral last mentioned had employed and used, assumed upon herself, and to the said *George* then and there faithfully promised, that she the said *Hannab*, not only so much money as the same *George* for his work, care and labour last mentioned, reasonably deserved to have, but also so much money, as the materials and things necessary last mentioned at the time of the finding and providing the same as abovesaid were reasonably worth, to the said *George*, when she should thereto afterwards be required, would well and faithfully pay and content: And the same *George* in fact says, that at the time of the promise and assumption last mentioned he the said *George* for his work, care and labour last mentioned, reasonably deserved to have other 130*l.* of like money, and that the materials and things necessary last mentioned, at the time of the finding and providing of the same as abovesaid, were reasonably worth other 130*l.* of like money, to wit, at *Westminster* abovesaid in the county abovesaid, whereof the said *Hannab* while she was sole then and there had notice: Nevertheless the said, &c.

Wilkins and Frogley.

For the hire of a horse, bridle and saddle. *Midd*, to wit. **A** *Arthur Frogley* late of *Westminster* in the county abovesaid, Gent. was attached to answer to *John W.* in a plea of trespass on the case, &c. And whereon the same *John* by *A. B.* his attorney complains, that whereas the said *Arthur*, on the 31st day of *May* in the fourth year of the reign of the Lord the now King, at *Westminster* in the county abovesaid, was indebted to the same *John* in 10*l.* of lawful money of *Great Britain* for the hire of a certain gelding of the said *John*, by the same *John* to the said *Arthur* at his special instance and request before that time let to hire, and by the same *Arthur* according to that hiring had and rode: And so therein being indebted the said *Arthur* in consideration thereof afterwards, to wit, the same 31st day of *May* in the fourth year abovesaid, at *Westminster* in the county abovesaid, assumed upon himself, and to the same *John* then and there faithfully promised, that he the said *Arthur* the said 10*l.* to the same *John*, when he should be thereto afterwards required, well and truly would content and pay: And whereas also the said *Arthur* afterwards, to wit, the same 31st day of *May* in the fourth year of the reign of the said Lord the now King abovesaid, at *Westminster* abovesaid in the county abovesaid, in consideration that the said *John*, at the special instance and request of the said *Arthur*, had before that time let to hire to the same *Arthur* a certain other gelding of the said *John* to ride about the business of the said *Arthur*, and the same *Arthur* the same gelding for a long time on that letting had had, and about his business had rode, assumed upon himself, and to the same *John* then and there faithfully promised, that he the said *Arthur* so much money for the hire of the gelding last mentioned, as the said *John* therefore reasonably deserved to have, to the same *John*, when he should be thereto afterwards required, well and truly would pay and content: And the same *John* in fact says, that he for the hire of the gelding last mentioned reasonably deserved to have of the same *Arthur* another 10*l.* of like lawful money of *Great Britain*, to wit, at *Westminster* abovesaid in the county abovesaid, whereof the said *Arthur* then and there had notice: Nevertheless the said *Arthur* his promises and assumptions abovesaid in form abovesaid made not regarding, but contriving and fraudulently intending the same *John* in this behalf craftily and subtilly to deceive and defraud, the said several sums of money, or any penny thereof, to the same *John* hath not yet paid, or hath any way for the same contented, (although to do it the said *Arthur* afterwards, to wit, the same 31st day of *May* in the fourth year abovesaid, at *Westminster* abovesaid in the county abovesaid, by the said *John* was required,) but them hitherto to pay him hath altogether refused, and yet doth refuse: And whereas also the said *John*, 21st day of *February* in the fourth year of the reign of the Lord the now King, at *Westminster* abovesaid in the county abovesaid, at the special instance and request of the said *Arthur*, had let and lent to the said *Arthur* a certain other gelding, together with a saddle and bridle of the said *John*, about the business of the said *Arthur*, for the space of six weeks from thence next following, to ride and use, the same *Arthur* in consideration thereof afterwards, to wit, the same 21st day of *February* in the fourth year abovesaid, at *Westminster* abovesaid in the county abovesaid, assumed upon himself, and to the same *John* then and there faithfully promised, that he the said *Arthur*, as well the said gelding last mentioned,

tioned, as the said saddle and bridle, to the same *John* at the end of the said six weeks well and faithfully would re-deliver: Nevertheless the said *Arthur* his said promise and assumption not regarding, the gelding aforesaid, &c. altho' often required, to the same *John* hath not yet re-delivered, or any way contented, but the same to him hitherto to re-deliver hath altogether refused, and to re-deliver the same to the said *John* doth yet refuse, to the damage of the said *John* 30 l. And therefore he produces the suit, &c.

Bank of England against Parry.

London, to wit. **T**homas Parry late of London, wine-cooper, was attached to answer to By the governor and company of the Bank of England in a plea of trespass on the case, &c. And whereupon the said governor and company of the Bank of England by G. N. their attorney complain, why whereas the said Thomas after the first day of May in the year of the Lord 1705, to wit, the 25th day of October in the year of the Lord 1717 at London aforesaid in the parish of St. Mary le Bow in the ward of Cheape, made his certain promissory note in writing with his own proper hand subscribed, bearing date the same day and year last aforesaid; by which said note the same Thomas Parry promised to pay to J. H. Bart. or order, into the Bank of England 524 l. 14 s. 1 d. the 25th day of January then next following for value received the same 25th day of October in the year of the Lord 1717 aforesaid: And whereas the said J. H. Bart. afterwards, to wit, 31st day of December in the year of the Lord 1717 aforesaid, at London aforesaid in the parish and ward aforesaid, by indorsement with his own proper hand on the same note subscribed, ordered and appointed the said 524 l. 14 s. 1 d. in the said promissory note mentioned, according to the tenor of the same promissory note, to be paid to the said governor and company of the Bank of England, or their order; by reason of which said premises, as also by force of the statute in such case lately made and provided, the same Thomas became chargeable, and ought to be charged to pay to the said governor and company of the Bank of England the said 524 l. 14 s. 1 d. in the said promissory note mentioned, according to the tenor and effect of the said promissory note and indorsement aforesaid; and so being chargeable he the said Thomas in consideration thereof afterwards, to wit, the same day and year aforesaid, at London aforesaid in the parish and ward aforesaid, assumed upon himself, and to the same governor and company of the Bank of England then and there faithfully promised, to pay to the said governor and company of the Bank of England the said 524 l. 14 s. 1 d. in the said promissory note mentioned, according to the tenor and effect of the same promissory note: And whereas also the said Thomas Parry afterwards, to wit, the 25th day of January in the year aforesaid, at London aforesaid in the parish and ward aforesaid, was indebted to the governor and company of the Bank of England in other 524 l. 14 s. 1 d. for so much money to the said Thomas, and at his special instance and request before that time by the same governor and company of the Bank of England lent; and the said Thomas being so therein indebted, in consideration thereof afterwards, to wit, the same day and year last aforesaid, at London aforesaid in the parish and ward aforesaid, assumed upon himself, and to the same governor and company of the Bank of England then and there faithfully promised, that he the same Thomas the said 524 l. 14 s. 1 d. last mentioned to the said governor and company of the Bank of England, when he should be thereto afterwards required, well and faithfully would content and pay: Nevertheless the said, &c.

Indebitas for money lent by the Bank to the defendant.

King and Peach.

Northampton, to wit. **J**ohn Peach late of M. in the county aforesaid, Gent. was attached to answer to Joseph King in a plea of trespass on the case, &c. And whereon the same Joseph by A. B. his attorney complains, that whereas the said John the 23d day of April in the year of the Lord 1697, at M. aforesaid in the county aforesaid, a certain dog accustomed to bite sheep knowingly kept; which said dog afterwards, to wit, the day, year and place aforesaid (then being the dog of the same John) forty sheep of the said Joseph then and there found so grievously bit, that thirty sheep of the price of 40 l. of the said forty sheep of him the said Joseph died, and the residue of the sheep were much the worse, to the damage of the said Joseph 40 l. And therefore he produces the suit, &c.

Case for keeping a dog accustomed to bite sheep. Pract. Reg. 28.

Terry and another and Page and others.

Cafe for erect-
ing a new
sheep fair in
prejudice of
plaintiffs old
fair by pre-
scription.

Prescription.
Pract. Reg.
20.

South'ton, to wit. **J** *JOHN Page* late of *Lasham* in the county aforesaid, yeoman, *Nathaniel Edwards* late of (and others) were attached to answer *John Terry*, Gent. and *John Simpson* in a plea of trespass on the case, &c. And whereon the same *John Terry* and *John Simpson* by *J. C.* their attorney complain, why whereas the dean and chapter of the cathedral church of the Holy Trinity *Winchester* in the county aforesaid were lately seised of a certain close of pasture called *Sawpit Close*, with the appurtenances, in the parish of *Sutton* in the county aforesaid, on the north side of the King's highway there, and lying next and contiguous to the same way, in their demesne as of fee in the right of their said church: And whereas one *Stephen Terry*, Gent. was also lately seised of one other close of meadow or pasture, with the appurtenances, called *Coop Close* there on the south part of the said King's highway, and lying next and contiguous to the same in his demesne as of fee: And the same dean and chapter, and the said *Stephen Terry*, and all they whose estate they respectively had in their closes aforesaid, with the appurtenances, from time immemorial had and held, and to have and hold were used and accustomed, in and upon their said closes, yearly and every year every sixth day of *November*, if it was not the Lord's day, and if it was, then on the morrow of the same day, a certain fair for all manner of sheep there to be bought and sold, together with toll, stallage, sheep-pens, pittance, and all other profits, commodities and emoluments whatsoever to that fair incident, belonging or appertaining, to wit, such toll, stallage, pittance and profits to them respectively and separately for such sheep, as in and upon their said several closes respectively were bought, sold or exposed to sale: And whereas the same *John Terry* now is, and for divers years now last past was, possessed of the said close of the said dean and chapter, and of their part of the fair aforesaid, as their farmer and under-tenant thereof for a term of years which is not yet passed: And whereas the said *John Simpson* now is, and for divers years now last elapsed was, also lawfully possessed of the said other close of the said *Stephen Terry*, and of his part of the said fair, with the appurtenances likewise, as his farmer and under-tenant thereof: And therefore they the said *John Terry* and *John Simpson* the whole profit of that fair between them respectively, so as aforesaid, for all the said time should and ought to have and receive: Nevertheless the said *John Page*, *Nathaniel*, &c. the premisses well and sufficiently knowing, but contriving and fraudulently intending the said *John Terry* and *John Simpson* unjustly to oppress, and of and in the toll and profits of the said fair greatly to deprive and hinder, lately, and a very short time before their said fair in and upon their said closes ought to be held, a certain new fair for sheep, without any lawful warrant or authority whatever, at the parish of *Herriard* in the county aforesaid, near the said closes where the said fair of them the said *John Terry* and *John Simpson* had been and was to be held as aforesaid, levied and erected to be held yearly, and that new fair at the same parish unlawfully and injuriously held and kept; in which said new fair, by the same *John Page*, *Nathaniel*, &c. so erected, levied and kept, very many sheep were bought, sold and exposed to sale, and the said *John Page*, *Nathaniel*, &c. great sums of money for toll thereof there took and had, to the prejudice, detriment and great hurt of the old fair of them the said *John Terry* and *John Simpson*; and the said *J. T.* and *J. S.* thereby the toll, stallage, sheep-pens, profits, commodities and emoluments, which of and in their said fair they might have received and had, did lose, to the damage of the said *J. T.* and *J. S.* 10*l.* And therefore they produce the suit, &c.

Johnson and Godson.

Assumpsit for
beer and ale.

London, to wit. **J** *Ames Johnson* complains of *Samuel Godson* in custody of the prison of *Ludgate* in the city of *London*, for this, to wit, that whereas the said *Samuel* the first day of *October* in the ninth year of the reign of the Lord *William* the Third, now King of *England*, &c. at *London* aforesaid, to wit, in the parish of *St. Mary le Bow* in the ward of *Cheape*, was indebted, to the said *James* in 50*l.* of lawful money of *England*, for beer and ale by the said *James* to the same *Samuel* and at his instance before that time sold and delivered; and so being therein indebted the same *Samuel* in consideration thereof afterwards, to wit, the same day and year aforesaid, at *London* aforesaid in the parish and ward aforesaid, assumed upon himself, and to the same *James* then and there faithfully promised, to pay him that sum: And whereas

also the said *Samuel* afterwards, to wit, the sixth day of *October* in the ninth year above said, at *London* afore said in the parish and ward afore said; in consideration that the said *James*, at the special instance and request of the said *Samuel*, before that time had sold and delivered to the said *Samuel* other beer and ale, assumed upon himself, and to the said *James* then and there promised, to pay him so much money as he therefore reasonably deserved to have: And the said *James* in fact says, that he therefore reasonably deserved to have other 50*l.* of like money, to wit, at *London* afore said in the parish and ward afore said; whereof the said *Samuel* the day and year last above said there had notice: Nevertheless the said, &c.

James and Englefield, Bart.

Midd., to wit. **W**illiam *James*, Esq; complains of *Charles Englefield*, Bart. in the custody of the marshal, &c. for this, to wit, that whereas the said *Charles*, on the 1st day of *June* in the fifth year of the reign of the Lady the now Queen, at the parish of *St. James's Westminster* in the county of *Middlesex* afore said, was indebted to the same *William* in 100*l.* of lawful money of this kingdom for meat, drink, washing and lodging, by the said *William James* before that time for one *Susanna Englefield* the wife of the said *Charles*, at the instance of the said wife while she was the wife of the said *Charles*, found and provided, and for money, by the said *William James* to the same *Susanna*, the wife of the said *Charles*, lent in and about her necessary business to be expended and by her so expended: And being so therein indebted the same *Charles* in consideration thereof afterwards, to wit, the same day and year, at the parish afore said in the county afore said, assumed upon himself, and to the same *William James* then and there faithfully promised, to pay him the same sum of money: And whereas also the said *Charles* afterwards, to wit, the same day and year, at the parish afore said in the county afore said, in consideration that the said *William James*, at the instance of the said wife and in the absence of the said *Charles*, before that time had found and provided for the same wife of the said *Charles* other meat, drink, washing and lodging, and divers other necessities for her necessary apparel, assumed upon himself, and to the same *William James* then and there faithfully promised, to pay him so much money as he therefore reasonably deserved to have: And the same *William James* in fact says, that he therefore reasonably deserved to have of the said *Charles* another sum of 100*l.* of like lawful money, to wit, at the parish afore said in the county afore said, whereof the said *Charles* afterwards, to wit, the same day and year there had notice: And whereas also the said *William James*, after the death of the said *Susanna* the wife of the said *Charles*, to wit, the first day of *August* in the year above said, at the parish afore said in the county afore said, at the special instance and request of the said *Charles*, had paid, expended and laid out, divers other sums of money in and about the funeral of the said wife of the said *Charles*, he the said *Charles* in consideration thereof afterwards, to wit, the same day and year last above said, at the parish afore said in the county afore said, assumed upon himself, and to the same *William James* then and there faithfully promised, to pay him so much money as he on that account had paid, laid out and expended: And the same *William James* in fact says, that he the same *William*, in and about the funeral of the said *Susanna* late wife of the said *Charles*, had paid and laid out the sum of 100*l.* at the parish afore said in the county afore said, whereof the said *Charles* afterwards, to wit, the same day and year last mentioned, there had notice: And whereas also the said *Charles* afterwards, to wit, the first day of *December* in the year last above said, at the parish afore said in the county afore said, was indebted to the said *William James* in another 100*l.* of like lawful money by the said *William*, to the use of the said *Charles*, and at his instance, before that time laid out and paid: And being so therein indebted the same *Charles* in consideration thereof afterwards, to wit, the same day and year, at the parish afore said in the county afore said, assumed upon himself, and to the same *William* then and there faithfully promised, to pay him the same sum of money: And whereas also the said *William James*, in the life-time of the said *Susanna* the wife of the said *Charles* and while she was so his wife, had found and provided for the same *Susanna* other meat, drink, washing, lodging and clothes, for the space of two years, and had paid and laid out for the said *Susanna* divers other sums of money for divers other things whereof she had need, amounting in the whole to the sum of 50*l.* of lawful money of this kingdom, and also had lent to the said *Susanna* in her life-time for her necessary support divers other sums of money amounting in the whole to the sum of other 50*l.* of like lawful money of this kingdom: And whereas the said *Susanna* afterwards, and before the said *William James* was paid or satisfied for the said meat, drink, washing, lodging and clothes, or any part thereof, to wit, the first day of *August* in the year of the Lord 1706, in the mansion-house of the said *William James* died, to wit, at the parish afore said in the county afore said, the said several sums of 50*l.* and 50*l.* last mentioned being to the same *William James* then likewise due and unpaid: And the dead body of the said *Susanna* so in the mansion-house of the said *William James* lying, the said *Charles* afterwards and before the said body was buried, to wit, the same day and year last mentioned, at the parish afore said in the county afore said, in consideration that he the said *William*,

Quant mer.

Assumpsit against the husband for diet and lodging of his wife, and monies lent her and laid out to her use, and for clothes and money expended in her funeral.
Salk. 131.

Quant mer.

Indebitas for money expended in the funeral of defendant's wife.

For money laid out to the defendant's use.

And for clothes bought the wife for two years.

Who died in plaintiff's house.

Whereupon in consideration plaintiff would permit defendant and his friends to come to bury her from his house, assumed, &c.

Plea.
Statute of limitations.
1 Show. 272.

Replication.
A *Latitat* sued out and continued.

The return.

Another.

The return.

Another.

liam, at the special instance and request of the said Charles, would permit the said Charles and his friends to come into the mansion-house of the said William James and bury the body of her the said Susanna from the said mansion-house of the said William James, assumed upon himself, and to the same William James then and there faithfully promised, that he the same Charles so much money, as the same William for the meat, drink, washing, lodging and clothes last mentioned, by the said William James for the same Susanna as aforesaid found and provided, reasonably deserved to have, and also the several last mentioned sums of 50 l. and 50 l. to the same William James well and faithfully would pay and content: And the same William James in fact says, that he, giving credit to the faithful promise and assumption of the said Charles last mentioned in form aforesaid made, afterwards, to wit, the same day and year last mentioned, at the parish aforesaid in the county aforesaid, did permit the said Charles and his friends to bury the dead body of the said Susanna from the said mansion-house of the said William James, and that he the said William James for the said meat, drink, washing, lodging and clothes last mentioned, by the said William James for the same Susanna as aforesaid found and provided, reasonably deserved to have of the said Charles other 100 l. of like lawful money of this kingdom of England, to wit, at the parish aforesaid in the county aforesaid; and thereof the said Charles afterwards, to wit, the same day and year last mentioned, there had notice: And whereas also (the other count was on an *in simul computassent* :) Nevertheless the said, &c.

When, &c. And says that the said William his action aforesaid thereof against him ought not to have or maintain, because he says, that the said bill was exhibited the 24th day of June in the 8th year of the reign of the said Lady the now Queen, and not before, and that the said Charles, at any time within six years next preceding the exhibition of the bill aforesaid, did not assume upon himself in manner and form as the said William above against him complains: And this he is ready to verify: Wherefore he prays judgment if the said William his action aforesaid thereof against him the said Charles ought to have or maintain, &c.

Ro. Raymond.

And the said William says that he, by any thing by the said Charles above by pleading alleged, from his action aforesaid thereof against him had ought not to be precluded; because he says that he the same William, after the making the several promises and assumptions aforesaid in the declaration aforesaid mentioned, and before the day of the exhibition of the bill of the said William aforesaid, to wit, in Michaelmas term in the fourth year of the reign of the said Lady the now Queen, prosecuted out of the court of the said Lady the Queen before the Queen herself, the same court then being at Westminster in the county of Middlesex, a certain writ of the said Lady the Queen, called a *Latitat*, to the sheriffs of London directed, by which said writ the said Lady the Queen reciting, that whereas the same Lady the Queen had lately commanded her sheriff of Middlesex that he should take the said Charles Englefield, Bart. if he should be found in his bailiwick, and should keep him safely, so that he should have his body before the said Lady the Queen at Westminster at a certain day then past, to answer to the said William in a plea of trespass, and also to the bill of the said William against the said Charles for 100 l. upon promise, and farther reciting, that her said sheriff of Middlesex at that day returned to the same Lady the Queen, that the said Charles was not found in his bailiwick, and that on the behalf of the said William in the said court of the said Lady the Queen before the Queen herself it was sufficiently testified, that the said Charles did run up and down and secrete himself in the county of the said sheriffs of London: Therefore the same Lady the Queen commanded the same sheriffs of London aforesaid that they should take the said Charles, if he should be found in their bailiwick, and safely keep him, so that the same sheriffs might have his body before the same Lady the Queen at Westminster on Wednesday next after the Octave of St. Hillary, to answer to the same William of the plea and bill aforesaid, and that the same sheriffs should have there then that writ: At which day, before the said Lady the Queen at Westminster, came the said William in his proper person, and offered himself against the said Charles on the plea and bill aforesaid: And the sheriffs of London, to wit, C. T. Knt. and S. S. Knt. at that day returned, that the said Charles Englefield, Bart. was not found in their bailiwick: Therefore the same William prayed another writ thereon in form aforesaid, to the sheriffs of London aforesaid to be directed; and to him it was granted, returnable before the said Lady the Queen at Westminster on Wednesday next after fifteen days of Easter then next following: The same day was given to the same Charles Englefield there, &c. At which day, before the said Lady the Queen at Westminster, came the said William in his proper person, and offered himself against the said Charles Englefield on the plea and bill aforesaid: And the sheriffs of London aforesaid, to wit, the said C. T. Knt. and S. S. Knt. at that day returned, that the said Charles was not found in their bailiwick: Therefore the same William prayed another writ thereon in form aforesaid, to the sheriffs of London aforesaid to be directed; and to him it was granted, returnable before the said Lady the Queen at Westminster on Wednesday next after the morrow of the Holy Trinity then next following: The same day was given to the same Charles Englefield there, &c. At which day, before the said Lady the Queen at Westminster, came the said William in his proper person, and offered himself against the said

Charles

Charles on the plea and bill aforesaid: And the sheriffs of *London*, to wit, the said *C. T. Knt.* and *S. S. Knt.* at that day returned, that the said *Charles Englefield* was not found in their bailiwick, as by the records in the court of the said Lady the Queen now before the Queen herself here, to wit, at *Westminster* aforesaid, remaining more fully is manifest and appears: Which said precept and the several aforesaid writs against the said *Charles Englefield*, at the suit of the said *William* as aforesaid prosecuted, were prosecuted with this intent that the said *Charles* might be taken, and to the custody of the marshal of the *Marshalsey* of the court of the said Lady the Queen, before the Queen herself, committed, and that the said *William* might thereupon exhibit his bill against the said *Charles*, and him implead, for the recovery and obtaining of damages by reason of the non-performance of the several promises and assumptions aforesaid in the declaration of the said *William* aforesaid abovementioned, according to the use and course of the said court and custom aforesaid: And the said *William* according to his intention aforesaid afterwards, to wit, in the said *Trinity* term in the 8th year of the reign of the said Lady the now Queen, by his bill aforesaid against the said *Charles Englefield* in form aforesaid hath declared, for the recovery and obtaining of the damages aforesaid in his bill aforesaid contained: And the same *William* farther says, that the said *Charles*, within six years next preceding the prosecution and issuing of the said writ of the said Lady the now Queen of *Latitat*, assumed upon himself in manner and form as the said *William* above against him complains: And this he is ready to verify: Wherefore he prays judgment and his damages by reason of the non-performance of the several promises and assumptions aforesaid to him to be adjudged, &c. With this, that the same *William* will verify, that the several causes of action in his bill aforesaid abovementioned, and the several writs out of the same court here against the said *Charles*, at the suit of the said *William* prosecuted, were and are one and the same cause of action, and not other nor divers, and that the said *William* now plaintiff in the Declaration aforesaid abovenamed, and the said *William* in the said several writs above likewise named, are one and the same person, and not other nor divers, and that the said *Charles* in the declaration aforesaid above named defendant, and the said *Charles Englefield* in the said several writs above likewise named defendant, are one and the same person, and not other nor divers.

The return.

Writs sued out with intent to declare in this action.

Averment that the cause of action in the bill and writs are the same.

And the said *Charles* says, that he the same *Charles*, within six years next preceding the prosecution and issuing of the said writ of the said Lady the now Queen of *Latitat* in the replication of the said *William* abovementioned, did not assume upon himself in manner and form as the said *William* above against him complains: And of this he puts himself on the country: And the said *William* thereof likewise, &c. Therefore let a jury thereon come before the Lady the Queen at *Westminster* on day next after And who neither, &c. to recognize, &c. because as well, &c. The same day is given to the parties aforesaid there, &c.

Rejoinder, did not assume within six years, before the issuing of the writ.

Winter and Wilson.

London, to wit. **N.** *Winter* complains of *B. Wilson* in the custody of the marshal, &c. for this, to wit, that whereas the said *B.* on the 1st day of *December* in the 6th year of the reign of the Lady *Anne* now Queen of *Great Britain*, &c. at *London* aforesaid, to wit, in the parish of *St. Mary-le-bow* in the ward of *Cheape*, in consideration that he the same *N.* at the special instance and request of the said *B.* had transported for the said *B.* divers goods and merchandizes in and upon a certain ship called *The King William galley* (of which said ship the said *N. Winter* was master) from parts beyond the seas to the port of *London* aforesaid, * the same *B.* in consideration thereof afterwards, to wit, the same day * and year aforesaid, at *London* aforesaid in the parish and ward aforesaid*, assumed upon himself, and to the same *N.* then and there faithfully promised, that he the same *B.* all such sums of money for the freight of the goods and merchandizes aforesaid, as he the same *N.* therefore reasonably deserved to have, together with primage and average therefore accustomed, to the same *N.* when he should be thereto afterwards required, well and faithfully would pay and content: And the same *N.* in fact says, that he the same *N.* for the freight of the goods and merchandizes aforesaid, together with primage and average therefore accustomed, reasonably deserved to have 73*l.* 1*s.* 9*d.* of lawful money of *England*, to wit, at *London* aforesaid in the parish and ward aforesaid, whereof the said *B.* then and there had notice: And whereas also afterwards, to wit, the said first day of *December* in the sixth year aforesaid, at *London* aforesaid in the parish and ward aforesaid, the said *B.* was indebted to the same *N.* in other 73*l.* 1*s.* 9*d.* of like lawful money of *England* for freight, primage and average, of other goods and merchandizes of the said *B.* by him the said *N.* for the said *B.* and at his request, upon another ship called *The King William galley* (whereof the said *N.* then and there was master) from parts beyond the seas unto the port of *London* aforesaid transported, and the said *B.* being so therein indebted, he the same *B.* in consideration thereof afterwards, to wit, the same day and year last aforesaid, at *London* aforesaid in the parish and ward aforesaid, assumed upon himself, and to the same *N.* then and there faithfully promised, that he the same *B.* the said 73*l.* 1*s.* 9*d.* last mentioned to the same *N.* when he should be thereto required, well and faithfully

Assumpsit for freight and average.

This agrees with the original.

fully would content and pay: And whereas also afterwards, to wit, the same day and year last abovesaid, at *London* abovesaid in the parish and ward abovesaid, he the same *B.* was indebted to the said *N.* in other 73*l.* 1*s.* 9*d.* of like lawful money of *England*, for so much money of the said *N.* by him the said *N.* for the said *B.* and at the special instance and request of him the said *B.* before that time paid, laid out and expended; and being so therein indebted, he the same *B.* in consideration thereof afterwards, to wit, the same day and year last abovesaid, at *London* abovesaid in the parish and ward abovesaid, assumed upon himself, and to the said *N.* then and there faithfully promised, that he the same *B.* the said 73*l.* 1*s.* 9*d.* last mentioned to the same *N.* when he should be thereto required, would well and faithfully pay and content: Nevertheless the said, &c.

East and South.

Assumpsit by a surviving partner according to 8 & 9 W. 3. suggesting the death of the other.
Pract. Reg. 395.

Midd', to wit. **R**ichard East complains of Robert South in the custody of the marshal, &c. for this, to wit, that whereas the said Robert, on the first day of *April* in the third year of the reign of the Lord George now King of *Great Britain*, &c. at *Westminster* in the county abovesaid, was indebted to the said Richard and one John North now deceased (whom he the said Richard hath survived) in 20*l.* of lawful money of *Great Britain*, for divers goods, wares and merchandizes, by him the said Richard and the before mentioned John in his life-time, and at the special instance and request of the said Robert, before that time there sold and delivered; and the said Robert being so therein indebted, he the same Robert then and there in consideration thereof assumed upon himself, and to the same Richard and the before mentioned John in his life-time then and there faithfully promised, that he the same Robert the said 20*l.* to the same Richard and the beforementioned John in his life-time, when he should be thereto afterwards required, well and faithfully would pay and content: And whereas also (*the other count as the case is*): Nevertheless the said Robert his promises and assumptions abovesaid in form abovesaid made not regarding, but contriving and fraudulently intending the same Richard and the before named John in the life-time of the said John, and the said Richard after the death of the said John, in this behalf craftily and subtilly to deceive and defraud, the said several sums of money, or any penny thereof, to the same Richard and John in the life-time of the before named John, or to either of them, or to the said Richard after the death of the before named John, hath not paid or any way for the same contented, (although to do it the said Robert by the said Richard and John in the life-time of the said John, and the said Robert after the death of the said John, was often required,) but the said Robert to pay them to the said Richard and John in the life-time of the said John, or to the same Richard after the death of the said John, hath altogether refused, and the said Robert them to the said Richard yet to pay doth refuse, to the damage of the said Richard East 30*l.* And therefore he produces the suit, &c.

East and West.

Assumpsit against a surviving partner pursuant to 8 & 9 W. 3.
Pract. Reg. 395.

Midd', to wit. **W**illiam East complains of Thomas West in the custody of the marshal, &c. for this, to wit, that whereas the said Thomas and one Francis Doe now deceased, (whom he the said Thomas survived) on the 2d day of *June* in the year of the Lord 1708, at *Westminster* in the county abovesaid, were indebted to the same William in 30*l.* of lawful money of *Great Britain*, for divers goods, wares and merchandizes, by him the same William to the same Thomas and Francis in the life-time of the said Francis, and at the special instance and request of them the said Thomas and Francis, before that time sold and delivered; and being so therein indebted they the same Thomas and Francis, in the life-time of the said Francis, then and there in consideration thereof, assumed upon themselves, and to the same William then and there faithfully promised, that they the said Thomas and Francis in the life-time of the said Francis the said 30*l.* to the same William, when they should be thereto afterwards required, well and faithfully would pay and content: And whereas also, &c. (*other counts as the case requires*): Nevertheless the said Thomas and Francis in the life-time of the said Francis, and the said Thomas after the death of the said Francis, their several promises and assumptions abovesaid in form abovesaid made not regarding, nor either of them any way regarding, but contriving and fraudulently intending the same William in this behalf craftily and subtilly to deceive and defraud, the said several sums of money, or any penny thereof, to the same William have not paid, nor hath either of them paid, altho' to do it the same Thomas and Francis in the life-time of the said Francis, afterwards, to wit, the day of in the year at *Westminster* abovesaid in the county abovesaid, and the said Thomas after the decease of the before named Francis, to wit, the day of in the year abovesaid, at *Westminster* abovesaid, by the said William were required, but the said Thomas and Francis in the life-time of the said Francis, and the said Thomas after the death of the said Francis, them to the said William to pay, or any way for the same to content, have

have altogether refused, and the said *Thomas* them to the same *William* hitherto to pay doth altogether refuse, to the damage of him the said *William* 40*l.* And therefore he produces the suit, &c.

Brook and Tayler.

London, to wit. **H**enry Brook the younger complains of *John Tayler* in the custody of the marshal, &c. for this, to wit, that whereas the said *John* contriving and maliciously intending the same *Henry* unjustly to injure and oppress, and to cause him to be kept and detained in prison for want of bail, on the 23d day of *November* in the 12th year of the reign of the Lady *Anne* late Queen of *Great Britain*, &c. at *London* aforesaid in the parish of *St. Mary le Bow* in the ward of *Cheape*, and within the jurisdiction of the court of the said Lady the late Queen, held before *J. Sharpe*, Esq; one of the sheriffs of the city of *London*, did cause and procure him the said *Henry* to be arrested and imprisoned by pretence and colour of a certain plaint in the said court of the said late lady the Queen held before the said sheriff at *London* aforesaid in the parish and ward aforesaid, the same day and year, at the suit of him the said *John* in a plea of trespass on the case, to the damage of the said *John* 500*l.* against him the said *Henry* entred and levied, when in truth and in fact the said *John*, at the said time of the arrest and imprisonment aforesaid, had no probable cause of action against him the said *Henry*, and the said *Henry* under that arrest in prison at *London* aforesaid in the parish and ward aforesaid, always from the time of the arrest of the said *Henry* aforesaid until and upon the 10th day of *December* in the 12th year of the reign of the said late Queen aforesaid, did cause to be detained for want of sufficient bail and security to answer the said *John* in the plea aforesaid for the said great pretended damages; on which said 10th day of *December* in the 12th year aforesaid, the same *Henry*, by virtue of a certain writ of the said late Queen to have the body with the cause, to the mayor, aldermen and sheriffs of *London* directed by the beforenamed *J. Sharpe* and one *Francis Forbes*, Esq; then being sheriffs of *London* aforesaid, was brought in custody before *Robert Eyre*, Knt. then one of the justices of the said late Lady the Queen, assigned to hold pleas in the court of the said Lady the Queen before the Queen herself, at his chamber situate in *Serjeants Inn* in *Chancery-lane* in the parish of *St. Dunstan* in the *West* in the ward of *Farringdon* without, and then and there, for want of bail and security to answer the said *John* in the plea aforesaid, was by the same justice committed to the custody of the marshal, &c. at the suit of the said *John* in the plea aforesaid, as by the writ to have the body of the said *Henry* and the return thereof, and the commitment of the said *Henry* in the court of the Lord the King, now before the King himself at *Westminster* remaining on record filed, is more fully manifest and appears; by virtue of which said commitment *M. C.* Esq; then marshal of the *Marshalsey* of the said court of the said late Queen before the Queen herself afterwards, to wit, the said 10th day of *December* in the 12th year of the reign of the said late Lady the Queen aforesaid, him the said *Henry* into his custody received and had, and him the said *Henry* in his custody in the said prison of the said late Lady the Queen always from thence afterwards until the 14th day of *October* then next following, for want of bail to answer the said *John* in the plea aforesaid, did detain without any bill or declaration against him the said *Henry* in the cause aforesaid exhibited, delivered or filed in the said court of the said late Lady the Queen before the Queen herself, and without any prosecution whatever in that cause or action: Therefore it was considered by the same court of the said Queen before the Queen herself, that the said *John* should take nothing by his plaint aforesaid, but that he and his pledges, to wit, *John Doe* and *Richard Roe*, should be therefore in mercy, and that the said *Henry* might go thence without day: And on that account the same *Henry* afterwards, to wit, the same day and year last mentioned, by virtue of a certain writ of the said late Lady the Queen of *superfedeas* out of the said court of the said Lady the Queen issued and prosecuted to the marshal of the *Marshalsey* of the said Lady the Queen before the Queen herself directed and delivered, commanding the same marshal that he should without delay cause the said *Henry* to be delivered from the prison of the said then Lady the Queen aforesaid, in which he then was detained, according to the direction of that writ, as by the said writ in the court of the now Lord the King before the King himself on record remaining filed more fully is manifest and doth appear; when in truth and in fact the said *John Tayler*, at the said time of the levying the plaint aforesaid in the said court of the said late Lady the Queen before the said sheriff of *London* against the said *Henry*, or at any other time before or after, had no probable cause of action whatsoever against him the said *Henry* for the said pretended damage of 500*l.* or any part thereof, nor any colour or pretence to arrest him the said *Henry* for the said 500*l.* or any part thereof; by reason of which said unjust and malicious arrest and imprisonment of the said *Henry*, the same *Henry* not only for all the time aforesaid in prison was detained, and of his liberty deprived, but also the same *Henry* great trouble and expences for his discharge from his imprisonment aforesaid underwent and sustained, and to undergo and sustain was obliged and compelled, to wit, at

London

Case for maliciously arresting plaintiff in the sheriff's court, where the cause was removed by Habeas Corpus into the King's Bench.

Habeas Corpus sued out.

Plaintiff not declaring was nonsuited.

London aforesaid in the parish and ward aforesaid above first mentioned; whereby the same *Henry* says that he is prejudiced, and has damage to the value of 500*l.* And therefore he produces the suit, &c.

Elmes and Heath.

Assumpsit by an apothecary for medicaments and his attendance in curing the defendant's son.

London, to wit. *JOHN Elmes* complains of *William Heath* in the custody of the marshal, &c. for this, to wit, that whereas the said *William* on the 10th day of *June* in the third year of the reign of the Lord *William* the Third, now King of *England*, &c. at *London*, to wit, in the parish of *St. Mary le Bow* in the ward of *Cheape*, was indebted to the same *John* in 30*l.* of lawful money of *England*, as well for divers medicaments, ointments, plaisters, fomentations, and other necessities by him the said *John*, at the special instance and request of the said *William* in and about the curing of one *Edward Heath*, the son of the said *William*, of divers infirmities and pains wherewith the said *Edward* before that time laboured and languished, found, provided, applied and administred, as for the work and labour of the said *John* in and about the application and administration of the medicaments, plaisters, ointments, fomentations and other necessities to the said *Edward* by him the said *John* done and performed; and being so therein indebted the same *William* in consideration thereof assumed upon himself, and to the same *John* then and there faithfully promised, that he the same *William* the said 30*l.* to the same *John*, when he should be thereto afterwards required, would well and faithfully pay and content: And whereas also the said *William* afterwards, to wit, the same day and year abovesaid, at *London* aforesaid in the parish and ward aforesaid, in consideration that the said *John* at the like instance and request of the said *William* had at the proper costs and charges of the said *John* found, provided, applied and administered divers other medicaments, plaisters, ointments, fomentations and other necessities in and about the cure of the said *Edward* of divers other infirmities and pains wherewith the said *Edward*, the son of the said *William*, laboured and languished, assumed upon himself, and to the same *John* then and there faithfully promised, that he the same *William* not only so much money, as the medicaments, plaisters, ointments and fomentations, and other things necessary aforesaid last mentioned, so as aforesaid applied and administred, were reasonably worth, but also so much money, as the same *John* for the finding, providing, administring and applying thereof reasonably deserved, to the same *John*, when he should be thereto afterwards required, would well and faithfully pay and content: And the same *John Elmes* in fact says, that the medicaments, plaisters, ointments, fomentations and other necessities last mentioned, by him the said *John* so as aforesaid found and provided, applied and administred, were reasonably worth other 30*l.* of like lawful money of *England*; and that he the same *John*, for the finding and providing, applying and administring the medicaments, plaisters, ointments and other necessities aforesaid last mentioned, reasonably deserved to have other 30*l.* of like lawful money of *England*, at *London* aforesaid in the parish and ward aforesaid: And thereof the said *William* afterwards, to wit, the same day and year last mentioned, at *London* aforesaid in the parish and ward aforesaid had notice: And whereas also the said *John*, at the special instance and request of the said *William*, at *London* aforesaid in the parish and ward aforesaid, had found and provided for the said *Edward Heath*, the son of the said *William*, sufficient meat, drink, washing and lodging for the space of four months and a half, the said *William* in consideration thereof afterwards, to wit, the said 10th day of *June* in the third year of the reign of the said Lord the now King abovesaid, at *London* aforesaid in the parish and ward aforesaid, assumed upon himself, and to the same *John* then and there faithfully promised, that he the same *William* so much money, as the same *John* therefore reasonably deserved to have, to the same *John* well and faithfully would pay and content: And the same *John Elmes* in fact says, that he the same *John* therefore reasonably deserved to have other 30*l.* of like lawful money of *England*, to wit, at *London* aforesaid in the parish and ward aforesaid, and thereof the said *William* then and there had notice: And whereas also, &c. (the other counts for goods sold): Nevertheless the said *William*, &c.

Saunders, Esq; against The sheriff of Middlesex.

Midd^s, to wit. **J**OHNSAUNDERS, Esq; complains of S. G. Bart. and R. B. Knt. late sheriff of the county of *Middlesex* aforesaid [* in the custody of the marshal, &c.] * These words are not in the original. Case against the sheriff of *Middlesex* for not taking sufficient bail on a replevin. The plaintiff possessed of goods in *Middlesex*. for this, to wit, that whereas the said *John* on the 19th day of *October* in the year of the Lord 1702, in the parish of *St. Clement Danes* in the said county of *Middlesex*, was possessed of a bed, a bedstead, a bolster, a pillow, six curtains, six vallance, six pair of linen sheets, three blankets, one quilt; a scrutore, a snuff-box, a set of gold buttons, two looking-glasses, a table, two stands, a dressing-box, two large brushes, a trunk, a large cover, seven open chairs, six cloth suits, a riding coat, two dozen of shirts, twenty-four neckcloths, a saddle two pistols, three pair of boots, twelve pair of shoes, six pair of stockings, a marble chimney-piece, six firestones, forty yards of wainscot, three sash-windows, thirty deal boards, a stove, a firehovel, a pair of tongs, a pitchfork, a pair of bellows, a clock case, a silver watch, a silver salver, six silver dishes, a silver tankard, two silver porringers with a silver cover, two silver candlesticks, two silver snuffers, three swords, four hats, three periwigs, a cane, a steel seal, a case of the same seal, two night-gowns, and sixty books, to the value of 200 l. as of his own proper goods and chattels: And whereas also the said *Samuel* and *Robert* on the same day and year, and long before and after, were sheriff of the same county of *Middlesex*, and the said *John* so of the goods and chattels aforesaid in form aforesaid possessed, and the said *Samuel* and *Robert* so as aforesaid being sheriff of the same county of *Middlesex*, the duty of their said office not considering, but contriving and fraudulently intending the said *John* of his goods and chattels aforesaid to deceive and defraud, on the same day and year aforesaid, at the said parish of *St. Clement Danes* in the said county of *Middlesex*, by colour of their office aforesaid, the goods and chattels aforesaid at the parish of *St. Clement Danes* aforesaid being found, at the plaint of one *William Presgrave*, pretending the same goods and chattels were the proper goods and chattels of the said *William Presgrave*, and to the same *William Presgrave* of right did belong and appertain, and that the said *John* had taken the goods and chattels aforesaid, and the same unjustly detained against surety and pledges, caused the goods and chattels aforesaid to be replevined from the possession of the same *John Saunders*, and the said goods and chattels to be delivered to the said *William Presgrave* did cause and procure without sufficient surety and pledges, or any sufficient security had or taken to prosecute the said plaint of him the said *William Presgrave* against the said *John* for the caption and unjust detention of the goods and chattels aforesaid, and to make a return of the same goods and chattels to the same *John Saunders*, if a return of the same should be adjudged to the same *John Saunders*, as by the law and custom of the kingdom of *England*, and the duty of their office aforesaid, they ought to have done: Which said plaint afterwards by due process of law into the court of the Lady the now Queen before the Queen herself, wheresoever, &c. was transmitted: And whereas also afterwards, to wit, in *Easter* term in the year of the reign of the said Lady the now Queen, he the same *John Saunders* thereon was summoned into the court of the said Lady the Queen before the Queen herself at *Westminster*, to answer to the same *William Presgrave* in a plea why he took the goods and chattels aforesaid; and thereupon it was in such manner proceeded that by the same court at *Westminster* it was considered, that the said *John Saunders* should have a return of the goods and chattels aforesaid to be detained by him irreplegable for ever; which said judgment yet remains and is in its full force and vigour not reversed or annulled; and that the goods and chattels aforesaid, to the said *William Presgrave*, by reason of the replevin aforesaid, so as aforesaid delivered, to places obscure and unknown are cloined, whereby they cannot be returned or delivered to the same *John*; and the said *John* the goods and chattels aforesaid by the occasion aforesaid hath wholly lost, and is without remedy, to the damage of the said *John* 200 l. And therefore he produces the suit, &c.

The defendants sheriff of the county.

Who on a pretended plaint levied in replevin by a third person delivered them to him, without sufficient sureties to prosecute.

Plaint removed into B. R.

A return adjudged to the plaintiff.

The goods cloined.

Browne and Davis.

Case against
the master of
a hoy for fall-
ing foul of
and sinking
plaintiff's
dung-boat.

Midd, to wit. **W**illiam Browne complains of *John Davis* in the custody of the marshal, &c. for this, to wit, that whereas the said *William* on the 6th day of *March* in the 4th year of the reign of the Lady *Anne* now Queen of *England*, &c. at the parish of *Chelsea* in the county aforesaid, was lawfully possessed of a certain flat-bottomed boat then loaded with dung, and riding at anchor in the river *Thames* within the parish aforesaid, as of his own proper boat: And the said *John Davis* then and there was master and pilot of a certain barge then sailing in the river *Thames* aforesaid within the parish aforesaid towards the city of *London*, and that the said *John Davis* then and there his said barge so negligently, carelessly and unskillfully managed and steered, that the said barge, for want of good and sufficient care and management thereof, in and upon the said boat of him the said *William* so as aforesaid loaded then and there fell foul, and the said boat broke and sunk; and the said *William* by reason thereof not only his dung aforesaid in the said boat loaded totally lost, but likewise lost the whole use, profit and benefit of his said boat for the space of six days then next following, and also expended and laid out great sums of money in and about the raising and repairing of his said boat; whereby the said *William* says that he is prejudiced, and hath damage to the value of 30 *l*. And therefore he produces the suit, &c.

Shish and Keech.

Assumpsit for
the use of a
dock.

London, to wit. **J**ONAS *Shish*, debtor to the now Lady the Queen, comes before the barons of this Exchequer 16th day of *June* in this term by *T. Owen* his attorney, and complains by bill against *William Keech*, present here in court the same day, in a plea of trespass on the case for this, to wit, that whereas the said *William* on the first day of *May* in the second year of the reign of the Lady *Anne* now Queen of *England*, &c. at *London* aforesaid, to wit, in the parish of *St. Mary le Bow* in the ward of *Cheape*, was indebted to the same *Jonas* in 300 *l*. for the use and occupation of a dock of the said *Jonas*, situate and being in *Rotherhithe* in the county of *Surrey*, by the same *William*, with a certain ship called the *Joseph*, by the permission of the said *Jonas*, at the instance of the said *William*, for a long time then lately elapsed used and occupied; and being so therein indebted the same *William* in consideration thereof afterwards, to wit, the same day and year, at *London* aforesaid in the parish and ward aforesaid, assumed upon himself, and to the same *Jonas* then and there faithfully promised, to pay him the same sum of money: And whereas also the said *William* afterwards, to wit, the third day of *May* in the year abovesaid, at *London* aforesaid in the parish and ward aforesaid, in consideration that the said *Jonas*, at the like instance of the said *William*, had permitted the same *William* for a long time then lately elapsed to have the use and occupation of the said dock, with another ship called the *Joseph*, assumed upon himself, and to the same *Jonas* then and there faithfully promised, to pay him so much money as he for the said use and occupation thereof reasonably deserved to have: And the same *Jonas* in fact says, that for the use and occupation aforesaid he the same *Jonas* reasonably deserved to have of the said *William* another sum of 300 *l*. to wit, at *London* aforesaid in the parish and ward aforesaid, whereof the said *William* the day and year last abovesaid there had notice: And whereas also the said *William* afterwards, to wit, the sixth day of *May* in the year abovesaid, at *London* aforesaid in the parish and ward aforesaid, was indebted to the same *Jonas* in other 300 *l*. for work and labour by the said *Jonas* by himself and his servants at the like instance of the said *William* before then done and bestowed on and about another ship called the *Joseph*, and for materials and things necessary in and about that work, at the request of the said *William* by the said *Jonas* found and provided; and being so therein indebted, the same *William* in consideration thereof afterwards, to wit, the same day and year, at *London* aforesaid in the parish and ward aforesaid, assumed upon himself, and to the same *Jonas* then and there faithfully promised, to pay him the same sum of money: And whereas also the same *William* afterwards, to wit, the 8th day of *May* in the year abovesaid, at *London* aforesaid in the parish and ward aforesaid, in consideration that the said *Jonas*, at the like instance of the said *William*, by himself and his servants had before that time done and bestowed other work and labour on and about another ship called the *Joseph*, and other materials and things necessary in and about that work had found and provided, assumed upon himself, and to the same *Jonas* then and there faithfully promised, to pay him so much money as he therefore reasonably deserved to have: And the same *Jonas* in fact

Quantum me-
ruit for work,
labour and
materials.
Salk. 710.

fact says, that he therefore reasonably deserved to have of the said *William* another sum of 300*l.* to wit, at *London* aforesaid in the parish and ward aforesaid, whereof the said *William* the day and year last aforesaid there had notice: And whereas also the said *William* afterwards, to wit, 20th day of *May* in the year aforesaid, at *London* aforesaid in the parish and ward aforesaid, was indebted to the same *Jonas* in other 300*l.* for divers wares and merchandizes by the same *Jonas* to the said *William* before then sold and delivered; and being so therein indebted the same *William* in consideration thereof afterwards, to wit, the same day and year at *London* aforesaid in the parish and ward aforesaid, assumed upon himself, and to the same *Jonas* then and there faithfully promised, to pay him the same sum of money: And whereas also the same *William*, 25th day of *May* in the year aforesaid, at *London* aforesaid in the parish and ward aforesaid, in consideration that the said *Jonas*, at the instance of the said *William*, divers other wares and merchandizes to him then before had sold and delivered, assumed upon himself, and to the same *Jonas* then and there faithfully promised, to pay him so much money as he therefore reasonably deserved to have: And the same *Jonas* in fact says, that he therefore reasonably deserved to have of the said *William* another sum of 300*l.* to wit, at *London* aforesaid in the parish and ward aforesaid, whereof the said *William* the day and year last aforesaid there had notice: Nevertheless the said *William* his several promises and assumptions aforesaid not regarding, but contriving and fraudulently intending the same *Jonas* in this behalf craftily and subtilly to deceive and defraud, the said several sums of money, or any penny thereof, to the same *Jonas* (although to do it by the same *Jonas* afterwards, to wit, on the first day of *June* in the year aforesaid, at *London* aforesaid in the parish and ward aforesaid, he was required) hath not yet paid, but them to him hitherto to pay hath altogether denied, and yet doth deny, to the damage of the said *Jonas* 533*l.* By which the less, &c. And therefore he produces the suit, &c.

Quantum meruit for goods sold.

Blackley and Cox.

Leicester, to wit. **M***ARY* Blackley, widow, complains of *Joseph Cox* in the custody of the marshal, &c. for this, to wit, that whereas the said *Joseph*, on the first day of *January* in the sixth year of the reign of the Lady the now Queen, at *Lutterworth* in the county aforesaid, was indebted to the same *Mary* in 30*l.* of lawful money of this kingdom for meat, drink, washing, lodging and necessary apparel, by the same *Mary* for one *Thomas Cox* the son of the said *Joseph*, at the instance of the said *Joseph*, before that time found and provided, and for money by the same *Mary* to the use of the said *Joseph*, at his request, then before laid out and paid; and being so therein indebted the same *Joseph* in consideration thereof afterwards, to wit, the same day and year at *Lutterworth* aforesaid in the county aforesaid, assumed upon himself, and to the same *Mary* then and there faithfully promised, to pay her the same sum of money: And whereas also the said *Joseph* afterwards, to wit, the 20th day of *January* in the sixth year aforesaid, at *Lutterworth* aforesaid in the county aforesaid, in consideration that the same *Mary*, at the like instance of the said *Joseph*, other meat, drink, washing, lodging and necessary apparel, for the said *Thomas* had found and provided, assumed upon himself, and to the same *Mary* then and there faithfully promised, to pay her so much money as she therefore reasonably deserved to have: And the same *Mary* in fact says, that she therefore reasonably deserved to have of the said *Joseph* another sum of 30*l.* of like money, to wit, at *Lutterworth* aforesaid in the county aforesaid, whereof the said *Joseph* the day and year aforesaid there had notice: And whereas also the said *Joseph* afterwards, to wit, 27th day of *January* in the sixth year aforesaid, at *Lutterworth* aforesaid in the county aforesaid, in consideration that the same *Mary*, at the request of the said *Joseph*, a large sum of money, to wit, 20*l.* of like money of this kingdom, had laid out and paid for the instruction and education of the said *Thomas*, the son of the said *Joseph*, in literature and good manners, and also in putting the same son apprentice to one *William Neale* to learn the art of a shoemaker, assumed upon himself, and to the same *Mary* then and there faithfully promised, to pay her that sum last mentioned: And whereas also the said *Joseph* afterwards, to wit, on the 28th day of *January* in the sixth year aforesaid, at *Lutterworth* aforesaid in the county aforesaid, in consideration that the same *Mary*, at the request of the said *Joseph*, other meat, drink, washing, lodging and necessary apparel for his son aforesaid had found and provided, and divers other sums of money, for the instruction and education of the same son in literature and good manners, had laid out and paid, assumed upon himself, and to the same *Mary* then and there faithfully promised, to pay her other 30*l.* therefore: And whereas also the said *Joseph* afterwards, to wit, 30th day of *January* in the 6th year aforesaid, at *Lutterworth* aforesaid in the county aforesaid, accounted with the same *Mary* for several sums of money by the same *Joseph* to the same *Mary* before then due, and being then unpaid; and upon that account the said *Joseph* was found

Assumpsit for diet, washing and lodging, and necessities provided for defendant's son.

found in arrear to the same *Mary* in another sum of 30 *l.* at *Lutterworth* aforesaid in the county aforesaid; and being so found therein in arrear the said *Joseph* in consideration thereof assumed upon himself, and to the same *Mary* then and there faithfully promised, to pay her the same sum of money: Nevertheless the said, &c.

Austin and Huggins.

Case against
the high bai-
liff of *West-*
minster for a
false return of
a *Fieri fac.*

The writ de-
livered to the
sheriff.

Warrant to
the high bai-
liff.

Who levied
the debt.

And to de-
fraud the
plaintiff re-
turned No
goods

Midd', to wit. **R**obert *Austin* complains of *John Huggins*, Esq; bailiff of the liberty of the dean and chapter of the collegiate church of *St. Peter Westminster* in the county of *Middlesex* aforesaid, in the custody of the marshal, &c. for this, to wit, that whereas the same *Robert* otherwise, to wit, in *Trinity* term last past in the court of the Lady the Queen before the Queen herself, (the same court being at *Westminster* in the county of *Middlesex*;) by the consideration of the same court did recover against one *William Stratford*, otherwise called *William Stratford* of the parish of *St. James's Westminster* in the county of *Middlesex*, Gent. 55 *l.* for a debt, and also 30 *s.* for his damages which he had sustained as well by reason of the detention of that debt, as for his costs and charges by him about his suit in that behalf expended, whereof he was convicted; and afterwards, to wit, 25th day of *June* last past, the said *Robert*, for the recovery of the debt and damages aforesaid, prosecuted out of the court of the said Lady the now Queen before the Queen herself (the same court being at *Westminster* in the county of *Middlesex* aforesaid) a certain writ of the said Lady the Queen of *Fieri facias* to the sheriff of *Middlesex* aforesaid directed, by which said writ the same Lady the Queen commanded the said sheriff, that of the goods and chattels of the said *William* in his bailiwick he should cause to be made the said 55 *l.* for the debt, as also 30 *s.* for the damages aforesaid; and that he should have that money before the said Lady the Queen at *Westminster* on *Wednesday* next after three weeks of *St. Michael* then next following, to render to the said *Robert* for the debt and damages aforesaid: Which said writ afterwards, and before the return thereof, to wit, on the 17th day of *August* in the first year of the reign of the said Lady the now Queen, at the parish of *St. Martin in the Fields* in the county of *Middlesex* aforesaid, was delivered to *William Withers*, Knt. and *James Bateman*, Knt. then being sheriff of the county of *Middlesex* aforesaid, in due form of law to be executed; which said sheriff then and there, to wit, the same 17th day of *August* in the first year above said, in the parish and county aforesaid, at the request of the said *Robert* made his warrant in writing, under the seal of the office of sheriff aforesaid, of and upon the said writ of *Fieri facias*, and the same warrant to the bailiff of the liberty of the dean and chapter of the collegiate church of *St. Peter Westminster* in the county aforesaid directed; which said bailiff of that liberty then had and yet has the full execution and return of all warrants, writs and mandates within the same liberty; by which said warrant the said sheriff of the county of *Middlesex* aforesaid then and there, by virtue of the said writ of the said Lady the Queen to the same sheriff as aforesaid directed and delivered, commanded the said bailiff of the said liberty, that of the goods and chattels of the said *William* in the bailiwick of the said bailiff he should cause to be made the said 55 *l.* which the said *Robert* had recovered against the said *William* for the debt, as also 30 *s.* for the damages of the said *Robert* whereof he was convicted, so that he might have that money before the said Lady the Queen at *Westminster* on the said *Friday* next after three weeks of *St. Michael*, to render to the said *Robert* for the debt and damages aforesaid: Which said warrant the said *Robert* afterwards, and before the return thereof, to wit, on the 18th day of *August* in the first year above said, at *Westminster* aforesaid, to the said *John Huggins* then and yet bailiff of the liberty aforesaid, and the execution and return of all writs, precepts and mandates within the same liberty then and there having, delivered in due form of law to be executed: By virtue of which said warrant the same bailiff of the liberty aforesaid afterwards, and before the return of that warrant, to wit, on the 20th day of *August* in the first year above said, at the parish aforesaid within his liberty aforesaid, levied several goods and chattels of the said *William* to the value of the debt and damages aforesaid: Nevertheless the said *John* being bailiff of the liberty aforesaid afterwards, at the return of the said writ, to wit, on the said *Friday* next after three weeks of *St. Michael*, before the said Queen at *Westminster* aforesaid in the county of *Middlesex* aforesaid, falsely and deceitfully, and in deceit of the said court of the Lady the Queen before the Queen herself, and to defraud the said *Robert* of his debt and damages aforesaid, returned to the said sheriff on and upon the warrant aforesaid, that the said *William* had no goods or chattels in his bailiwick whereof he could cause to be made the debt and damages aforesaid, or any part thereof, as he by the warrant aforesaid was commanded, when in truth and in fact the same *John Huggins* as bailiff of the liberty aforesaid within the same bailiwick, to wit, at the parish aforesaid in the county aforesaid, by virtue of the warrant aforesaid so as aforesaid made, and to the same *John Huggins* as bailiff of the liberty aforesaid directed and delivered, had levied several goods and chattels of the said *William Stratford* to the value of the debt and damages

mages aforesaid, whereby the said *Robert* says that he is prejudiced, and hath damage to the value of 60*l.* And therefore he produces the suit, &c.

Eastman and Butler.

London, to wit. **T**heobald Butler late of London, merchant, was attached to answer to *Nebemias Eastman* and *Richard Merry* assignees of the debts, goods and chattels of *Daniel Marcon* and *Andrew Solirel* bankrupts, according to the form of the statutes of bankrupts lately made and provided, in a plea of trespass on the case, &c. And whereon the same *Nebemias* and *Richard* by *John Page* their attorney complain, why whereas the said *Daniel* and *Andrew*, at the time of the making of the several promissory notes hereafter mentioned, were in company and partners in the business of merchandizing, one *Richard Butler* after the first day of *May* in the year of the Lord 1705, to wit, on the 18th day of *August* in the year of the Lord 1714, then being an agent of the said *Theobald* then being a merchant, and by the said *Theobald* usually intrusted to make and sign promissory notes for the payment of money for him the said *Theobald*, at London aforesaid in the parish of *St. Mary le bow* in the ward of *Cheape*, made a certain promissory note in writing, with the proper hand of the said *Richard Butler* subscribed, bearing date the same day and year last aforesaid, and by the same note promised to pay to the said *Daniel* and *Andrew*, by the name of Messieurs *Marcon* and company, or order, 200*l.* sterling, three months and 15 days after the date of the same note, value received for his master the said *Theobald Butler*; by reason whereof, and by force and virtue of the statute in such case made and provided, the same *Theobald* ought to be charged, and was chargeable to pay to the same *Daniel* and *Andrew* the said 200*l.* in the note aforesaid mentioned: And so being chargeable with the payment thereof, the said *Theobald* in consideration thereof, afterwards, to wit, the 9th day of *May* in the year of the Lord 1715, at London aforesaid in the parish and ward aforesaid, assumed upon himself and to the same *Nebemias* and *Richard* then and there faithfully promised, that he the said *Theobald* the said 200*l.* in the note aforesaid mentioned to the said *Nebemias* and *Richard*, when he should be thereto afterwards required, well and faithfully would pay and content: And whereas also afterwards, and after the said first day of *May* in the year of the Lord 1705, to wit, the said 18th day of *August* in the year of the Lord 1714, he the said *Richard Butler* then being agent of the said *Theobald*, and by him usually intrusted to sign promissory notes for the said *Theobald* for the payment of the money in the same mentioned to the person or persons in the same named, at London aforesaid in the parish and ward aforesaid, made a certain other promissory note in writing with the proper hand of the said *Richard Butler* subscribed, bearing date the same day and year last aforesaid, and by the same note promised to pay to the said *Daniel* and *Andrew*, by the name of Messieurs *Marcon* and company, or order, 143*l.* 10*s.* sterling, three months and 15 days after the date of the same note, value received for his said master the said *Theobald Butler*; by reason whereof, and by virtue of the statute in such case lately made and provided, the same *Theobald* became liable to pay to the said *Daniel* and *Andrew* the said 143*l.* 10*s.* in the note aforesaid last mentioned, and so being liable to the payment thereof, the said *Theobald* in consideration thereof afterwards, to wit, the said 9th day of *May* in the year of the Lord 1715 aforesaid, at London aforesaid in the parish and ward aforesaid, assumed upon himself, and to the same *Nebemias* and *Richard* then and there faithfully promised, that he the said *Theobald* the said 143*l.* 10*s.* in the same note last mentioned to the same *Nebemias* and *Richard*, when he should be thereto required, well and faithfully would pay and content: And whereas also afterwards, and after the 1st day of *May* in the year of the Lord 1705, to wit, the said 18th day of *August* in the year of the Lord 1714 aforesaid, the said *Richard Butler* then being agent of the said *Theobald*, and by him usually intrusted to sign promissory notes for him the said *Theobald* for the payment of money in the same mentioned to the person or persons in the same named, at London aforesaid in the parish and ward aforesaid, made a certain other promissory note in writing, with the proper hand of the said *Richard* subscribed, bearing date the same day and year last aforesaid, and by the same note promised to pay to the said *Daniel* and *Andrew*, by the name of Messieurs *Marcon* and company, or order, 171*l.* 15*s.* sterling, six Months and fifteen days after the date of the same note, value received for his master the said *Theobald Butler*, by reason whereof, and by virtue of the statute in such case lately made and provided, the same *Theobald* ought to be charged, and was chargeable to pay to the same *Daniel* and *Andrew* the said 171*l.* 15*s.* in the note aforesaid last mentioned contained: And being so chargeable the same *Theobald* in consideration thereof afterwards, to wit, the said ninth day of *May* in the year of the Lord 1715 aforesaid, at London aforesaid in the parish and ward aforesaid, assumed upon himself, and to the same *Nebemias* and *Richard* then and there faithfully promised, that he the same *Theobald*

Assumpsit by assignees of two bankrupts on promissory notes given by defendant's servant for defendant, payable to the bankrupts.

3 & 4 Anne, c. 9.

Assumpsit for goods of the bankrupt's delivered by them to the defendant.

Quant' mer'.

obald the said 1711. 15s. in the note aforesaid mentioned to the said *Nebemiab* and *Richard* when he should be thereto afterwards required, would well and faithfully pay and content: And whereas also afterwards, and after the said first day of *May* in the year of the Lord 1705 aforesaid, to wit, the said 18th day of *August* in the year of the Lord 1714, the said *Richard Butler* then being agent of the said *Theobald*, and by him usually intrusted to sign promissory notes for the payment of the money therein mentioned to the person or persons therein named for him the said *Theobald*, at *London* aforesaid in the parish and ward aforesaid, made a certain other promissory note in writing, with the the proper hand of the said *Richard Butler* subscribed, bearing date the same day and year last aforesaid, and by the same note promised to pay to the said *Daniel* and *Andrew*, by the name of *Messieurs Marcon* and company, or order, 1721. 2s. 10d. sterling, six months and fifteen days after the date of the same note, value received for his master the said *Theobald Butler*; by reason whereof, and by force and virtue of the statute in such case lately made and provided, the same *Theobald* became liable to pay to the same *Daniel* and *Andrew* the said 1721. 2s. 10d. in the same note last mentioned contained; and being so liable to the payment thereof, the same *Theobald* in consideration thereof afterwards, to wit, the said 9th day of *May* in the year of the Lord 1715 aforesaid, at *London* aforesaid in the parish and ward aforesaid, assumed upon himself, and to the same *Nebemiab* and *Richard* then and there faithfully promised, that he the said *Theobald* the said 1721. 2s. 10d. in the same note mentioned to the said *Nebemiab* and *Richard*, when he should be thereto afterwards required, would well and faithfully pay and content: And whereas also the said *Theobald* afterwards, to wit, the same day and year last aforesaid, at *London* aforesaid in the parish and ward aforesaid, was indebted to the same *Nebemiab* and *Richard*, as assignees of the debts of the said *Daniel* and *Andrew*, being bankrupts as aforesaid, in 6951. 15s. of lawful money of this kingdom for divers goods, wares and merchandizes of the said *Daniel* and *Andrew*, and by them the said *Daniel* and *Andrew* to the same *Theobald* at his instance then before sold and delivered; and being therein so indebted the said *Theobald* afterwards, to wit, the same day, year and place last aforesaid, in consideration thereof assumed upon himself, and to the same *Nebemiab* and *Richard* then and there faithfully promised, that he the said *Theobald* the said 6951. 15s. to the same *Nebemiab* and *Richard*, when he should be thereto afterwards required, would well and faithfully pay and content: And whereas also the said *Theobald* afterwards, to wit, the same day, year and place last aforesaid, in consideration that the said *Daniel* and *Andrew* at the request of the said *Theobald* before that time had sold and delivered to the same *Theobald* divers other goods, wares and merchandizes of them the said *Daniel* and *Andrew*, assumed upon himself, and to the same *Nebemiab* and *Richard*, as assignees of the debts of the said *Daniel* and *Andrew*, being bankrupts as is aforesaid, faithfully promised to pay them so much money, as the goods, wares and merchandizes aforesaid last mentioned at the time of the sale and delivery of the same were worth: And the same *Nebemiab* and *Richard* in fact say, that the goods, wares and merchandizes last mentioned, at the time of the sale and delivery of the same to the said *Theobald*, were reasonably worth another sum of 6951. 15s. of like lawful money, to wit, at *London* aforesaid in the parish and ward aforesaid, whereof the said *Theobald* then and there had notice: Nevertheless the said *Theobald*, &c.

Infes and Kirwood.

Assumpsit by an executor for not transferring South-Sea stock, and the dividend for the same.

London, to wit. **M** *Matthew Kirwood* late of *London*, Knt. was attached to answer to *Margery Infes*, widow, executrix of the last will and testament of *Michael Infes* her late husband deceased, in a plea of trespass on the case, &c. And whereon the said *Margery* by *E. C.* her attorney complains, why whereas the said *Matthew* on the 5th day of *April* in the year of the Lord 1712, at *London* aforesaid, to wit, in the parish of *St. Mary le Bow* in the ward of *Cheape*, in consideration that the said *Michael* in his life-time then and there at the special instance and request of the said *Matthew* had paid unto the said *Matthew*, to the proper use of the said *Matthew*, the sum of 1181. 11s. 5d. of lawful money of this kingdom, assumed upon himself, and to the said *Michael* in his life-time then and there faithfully promised, that he the said *Matthew* 1181. 11s. 5d. of *South-Sea* stock, with all dividends for the same, to the said *Michael*, when he should be thereto after required, would transfer: Nevertheless the said *Matthew* his promise and assumption aforesaid in form aforesaid made not regarding, but contriving and fraudulently intending the said *Michael* in his life-time, and the same *Margery* after the decease of the said *Michael*, in this behalf to deceive and defraud, hath not transfer'd to the said *Michael* in his life-time, or to the same *Margery* after his decease, the said 1181. 11s. 5d. *South-Sea* stock, nor any part thereof, altho' to transfer it to the said *Michael* the said *Matthew*

Matthew by the said *Michael* in his life-time afterwards, to wit, the same day and year above said, at *London* afore said in the parish and ward afore said, was required, and altho' to transfer it to the same *Margery* after the death of the said *Michael*, to wit, the first day of *January* in the year of the Lord 1717, at *London* afore said in the parish and ward afore said, he was required; and the same *Margery* then and there was ready to receive it from the said *Matthew*, but to transfer it to the said *Michael* in his life-time, and to the same *Margery* after his death, hath altogether refused, and to transfer it to the same *Margery* doth yet refuse: And whereas also, &c.

Woofely and Fowler.

AND whereas also the said *John* afterwards, to wit, the same day and year above said (a) Not in the original. at *London* afore said [(a) in the parish and ward afore said] in consideration that the said *George* at the like instance and request of the said *John* had done and performed for the said *John* divers other shipwright's work, and at the like special instance and request of the said *John* had found and provided for the same *John* divers other materials and things necessary used in and about the work last mentioned, (b) [he the said *John* in consideration thereof afterwards, to wit, the same day and year above said, at *London* afore said,] (a) assumed upon himself, and to the same *George* then and there faithfully promised, that he the said *John* all such sums of money, as he the same *George* for the work, materials and things necessary afore said last mentioned reasonably deserved to have, to the same *George*, when he should be thereto afterwards required, would well and faithfully pay and content: And the same *George* in fact says, that he the same *George* reasonably deserved to have of the said *John* other 650 l. of like lawful money, for the work, materials and things necessary afore said last mentioned, whereof the same *John* afterwards, to wit, the day and year above said at *London* afore said (a) had notice: Nevertheless the said, &c.

Quantum meruit for shipwright's work.

(b) The original is as here.

Table to the Reports 19.

Eeles and Stiles.

London, to wit. **T**homas *Eeles* complains of *Thomas Stiles* in the custody of the marshal, &c. for this, to wit, that whereas after the first day of *May* in the year of the Lord 1705, to wit, on the 17th day of *March* in the year of the Lord 1708, and long before, at *London* afore said in the parish of *St. Mary le Bow* in the ward of *Cheape*, one *Randal Robetson* was servant of the said *Thomas Stiles*, and by the said *Thomas Stiles* then and long before usually intrusted to sign promissory notes for the said *Thomas Stiles* his master, to wit, at the parish and ward afore said; and the said *Randal* so as afore said being intrusted, the said *Randal* the same 17th day of *March* in the year of the Lord 1708, at *London* afore said in the parish and ward afore said, for the said *Thomas Stiles* made a certain note in writing called a promissory note, bearing date the same day and year last mentioned, with the proper hand and name of the said *Randal* to the same note subscribed, and by the same note the said *Randal* promised to pay to one *James Ford*, or order, six months after the date of the same note, 80 l. value received for the said *Thomas Stiles* the master of the said *Randal*: And the said *Thomas Eeles* farther says, that afterwards and before the payment and satisfaction of the said sum of 80 l. in the same note contained, to wit, the 25th day of *March* in the year of the Lord 1709, at *London* afore said in the parish and ward afore said, the said *James* by indorsement, with his proper hand on the same note indorsed, appointed the contents of the same note to be paid to the said *Thomas Eeles* for value received; of which said note so indorsed, and of the said indorsement, the said *Thomas Stiles* afterwards, to wit, the same 25th day of *March* in the year of the Lord last above said, at *London* afore said in the parish and ward afore said, had notice: Notice. And by virtue of the same note and indorsement afore said, as also by force of the statute in 3 & 4 Anne, such case lately made and provided, the said *Thomas Stiles* then and there became chargeable and charged, and was and is chargeable to pay to the same *Thomas Eeles* the said 80 l. in the same note mentioned, according to the tenor of the same note; and being so therewith chargeable and charged, the said *Thomas Stiles* in consideration thereof afterwards, to wit, the same day and year last above said, at *London* afore said in the parish and ward afore said, assumed upon himself, and to the same *Thomas Eeles* then and there faithfully promised, that he the said *Thomas Stiles* the said 80 l. to the said *Thomas Eeles*, according to the tenor of the note afore said, well and faithfully would pay and content: And whereas also the said *Thomas Stiles* afterwards, to wit, the 29th day of *September* in the 8th year of the reign of the now Queen, at *London* afore said in the parish and ward afore said, was indebted to the said *T. Eeles* in another 80 l. of lawful money of this kingdom, for so much money by the said *T. Eeles* for the said *Thomas*, and

Assumpsit by an assignee against the master on a promissory note drawn by and in the name of the servant for value received for his master. The note before payment indorsed to the plaintiff.

Assumpsit for money laid out and paid.

and at the special instance and request of the said *Thomas* before then expended, laid out and paid; and the said *Thomas Stiles* being so therein indebted, the said *Thomas* in consideration thereof afterwards, to wit, the same 29th day of *September* in the 8th year above said, at *London* aforesaid in the parish and ward aforesaid, assumed upon himself, and to the said *Thomas Eeles* then and there faithfully promised, that he the said *Thomas Stiles* the said 80*l.* last mentioned to the same *Thomas Eeles*, when he should be thereto afterwards required, would well and faithfully pay and content: Nevertheless the said, &c.

Morton and Sleddall.

Cafe by the assignee against the drawer of an inland bill of exchange. Pract. Reg. 233.

The bill indorsed to the plaintiff according to the use of merchants.

Acceptance refused.

Notice to the drawer.

Indebted for money received to the plaintiff's use.

Breach of promise.

Midd', to wit. **J**OH*N* Morton complains of *John Sleddall* in the custody of the marshal, &c. for this, to wit, that whereas the said *John Sleddall* on the 13th day of *April* in the year of the Lord 1717, at *Westminster* in the county aforesaid, (then being a person using commerce, to wit, at *Westminster* aforesaid,) according to the use and custom of merchants, made his certain bill of exchange in writing, with his hand subscribed, bearing date the same day and year, and the same bill of exchange to one *Kingsmill Eyre* directed; by which said bill of exchange the same *John Sleddall* required the said *Kingsmill Eyre* to pay to one *Thomas Pipon*, or his order, the sum of 20*l.* twenty days after sight of the said bill, value received, and place it to the account of the subsistence for the use of the company of invalids of captain *Spicer* in the garrison at *Fersey*, and it should be allowed in account by the said *John Sleddall*: And the said *Thomas Pipon* afterwards, to wit, 14 *May* in the year of the Lord above said, at *Westminster* aforesaid, by his indorsement on that bill of exchange made according to the use and custom of merchants, order'd the contents of the said bill, to wit, the said 20*l.* to be paid to one *John Vowler*, or his order; which said *John Vowler* afterwards, to wit, 27th day of *May* in the year above said, at *Westminster* aforesaid, by his indorsement on that bill of exchange made according to the use and custom of merchants, ordered the contents of the same bill, to wit, the said 20*l.* to be paid to the said *John Morton*, or his order: And the same *John Morton* in fact says, that he afterwards, to wit, the first day of *June* in the year above said, at *Westminster* aforesaid, shewed to the said *Kingsmill Eyre* the bill aforesaid, with the indorsements aforesaid thereon made, and then and there required him to accept the said bill; which said *Kingsmill Eyre* would not accept the said bill, but to accept it, or the said 20*l.* in the same bill mentioned ever to pay, then and there totally refused; of which premisses the said *John Sleddall* afterwards, to wit, the 8th day of *June* in the year above said, at *Westminster* aforesaid, had notice; by reason of which said premisses he the said *John Sleddall*, according to the custom of merchants, became chargeable to pay to the said *John Morton* the said 20*l.* in the bill of exchange aforesaid mentioned: And the said *John Sleddall* so being chargeable afterwards, to wit, the same day and year, at *Westminster* aforesaid, in consideration thereof, assumed upon himself, and to the same *John Morton* then and there faithfully promised, that he the said *John Sleddall* the same 20*l.* to the same *John Morton* would well and faithfully pay and content: And whereas also the said *John Sleddall* the 30th day of *August* in the year above said was indebted to the said *John Morton* in 80*l.* for money by the said *John Sleddall* to the use of the said *John Morton* before received; and being so indebted the said *John Sleddall* the day and year last above said, at *Westminster* aforesaid, in consideration thereof, assumed upon himself, and to the same *John Morton* then and there faithfully promised, that he the said *John Sleddall* the said 80*l.* to the same *John Morton* would well and faithfully pay and content: Nevertheless the said *John Sleddall* his several promises and assumptions aforesaid not regarding, but contriving and fraudulently intending the same *John Morton* in this behalf craftily and subtilly to deceive and defraud, the said several sums of money, or any penny thereof, to the same *John Morton* (altho' to do it the said *John Sleddall* by the same *John Morton* afterwards, to wit, the 31st day of *August* in the year above said, and often after, at *Westminster* aforesaid was required) hath not paid, but the same to him hitherto to pay hath altogether refused, and yet doth refuse, to the damage of the said *John Morton* 80*l.* And therefore he produces the suit, &c.

Adams and Furgeon.

Assumpsit against one partner, the other being outlawed. Pract. Reg. 55, 157.

London, to wit. **J**OH*N* Furgeon late of *Westminster* in the county of *Middlesex*, merchant, was attached to answer to *John Adams* in a plea of trespass on the case, &c. And whereon the said *John Adams* by L. C. his attorney complains, why whereas the said *John Furgeon*, together with *Daniel Barbald* late of *Greenwich* in the county of *Kent*, feltmaker, partner with the said *John Furgeon*, which said *Daniel* in the court of the Lord and Lady the King and Queen before the King and Queen themselves is duly outlawed, on the first day of *August* in the year of the Lord one thousand six hundred eighty-eight, at *London*, to wit, in the parish of *St. Mary le Bow* in the

the ward of *Cheape*, was indebted to the said *John Adams* in 140 l. 8 s. 8 d. of lawful money of *England*, for divers wares and merchandizes of the said *John*, by the said *John Adams* to the same *John Furgeon* and the before named *Daniel*, who, &c. before that time sold and delivered; and being so therein indebted the said *John Furgeon* and the before named *Daniel*, who, &c. then and there in consideration thereof assumed upon themselves, and to the same *John Adams* then and there faithfully promised, that they the same *John Furgeon* and the before named *Daniel*, who, &c. the said 140 l. 8 s. 8 d. to the said *John Adams*, when they should be thereto after required, would well and faithfully pay and content: Nevertheless the said *John Furgeon* and *Daniel*, who, &c. before the outlawry aforesaid had, contriving and fraudulently intending the same *John Adams* of the said 140 l. 8 s. 8 d. craftily and subtilly to deceive and defraud, the said 140 l. 8 s. 8 d. to the said *John Adams* (altho' to do it the said *John Furgeon* and *Daniel*, who, &c. before the outlawry aforesaid had afterwards, to wit, the first day of *August* in the year of the Lord 1688 aforesaid, and the said *John Furgeon* often after, at *London* in the parish and ward aforesaid, by the said *John Adams* were required) have not, nor hath either of them yet paid, neither have they, nor either of them, any way contented him for the same, but the said 140 l. 8 s. 8 d. to the said *John Adams* hitherto to pay, or for the same to content, have altogether refused, and the said *John Furgeon* to pay him the same doth yet refuse, to the damage of the said *John Adams* 140 l. And therefore he produces the suit, &c. Plaintiff recovered in this action.

Breach of promise.

Wanley against Lord, widow, and others.

Midd, to wit. **G** *George Wanley* and *George Cradock* complain of *Rachael Lord*, widow, *Thomas Lord*, Gent. *Joseph Ludlow* and *Mary Thomas*, widow, executors of the last will and testament of *Robert Lord* deceased, in the custody of the marshal, &c. for this, to wit, that whereas the said *Robert* in his life-time after the first day of *May* in the year of the Lord 1705, to wit, the 28th day of *May* in the year of the Lord 1718, at *Westminster* in the county of *Middlesex*, made his certain note in writing called a promissory note, with his proper hand subscribed, bearing date the same day and year, and by the same note promised to pay to one Mr. *Edward Minshall*, or order, 500 l. six months after the date of the same note for value received: And that sum of money being not paid to the said *Edward*, the same *Edward* afterwards, to wit, the 30th day of *June* in the year of the Lord 1718 aforesaid, at *Westminster* aforesaid, indorsed that note with his own proper hand thereto subscribed, and by that indorsement the same *Edward* appointed the same sum of money to be paid to the said *George Wanley* and *George Cradock*, whereof the said *Robert* in his life-time had notice; and by reason thereof, and by force of the statute in such case lately made and provided, the same *Robert* in his life-time became liable to pay to the same *George Wanley* and *George Cradock* the same sum of money, according to the tenor of the same note; and in consideration of the premisses the same *Robert* in his life-time assumed upon himself, and to the same *George Wanley* and *George Cradock* then and there faithfully promised, to pay them that sum of money: Nevertheless the said, &c.

Assumpsit by assignees of a promissory note against executors. Plow. 180, 183.

3 & 4 Ann

White against Howell and his wife.

London, to wit. **R** *Robert White* complains of *Richard Howell* and *Grace* his wife administratrix of the goods and chattels, rights and credits of *William Lawrence* deceased, who died intestate in the custody of the marshal, &c. for this, to wit, that whereas on the 11th day of *June* in the 12th year of the reign of the Lord the now King of *England*, &c. at *London*, to wit, in the parish of *St. Mary le Bow* in the ward of *Cheape*, a certain discourse was had and moved between the said *Robert* and the said *Richard* and *Grace* of and concerning a certain former partnership in the mercers trade jointly had and negotiated between the said *Robert* and one *Matthew Williams* and the said *William Lawrence* in his life-time, to wit, in the year of the Lord 1682 and afterwards, upon which said discourse the said *Robert* asserted and affirmed, that he the said *Robert* had paid larger and more sums of money, by reason of the said former partnership, than he on that account had before received; and thereupon the said *Richard* and *Grace*, in consideration of 5 s. of lawful money of *England* to them in hand by the said *Robert* paid, assumed upon themselves, and to the same *Robert* then and there faithfully promised, that they the same *Richard* and *Grace* would pay to the said *Robert* five shillings of like lawful money of *England* for every pound or sum of twenty shillings which he the said *Robert* had paid, by reason of such former partnership, beyond or more than he on that account had before received, and so according to that rate for every

Declaration and pleadings in a feigned issue directed out of Chancery concerning partnership.

every greater or less sum than the sum of 20*s*. And the said *Robert* in fact says, that he had paid 500*l*. and more beyond what he had received by that means, or on account of the former partnership, to wit, at *London* aforesaid in the parish and ward aforesaid, whereby 125*l*. to the said *Robert* from the said *Richard* and *Grace* became due and payable: And whereas also afterwards, to wit, the same day, year and place aforesaid, a certain other discourse was moved and had between the said *Robert* and the said *Richard* and *Grace* concerning a certain debt of 211*l*. 18*s*. from the said intestate *William Lawrence* at the time of his death to the said *Robert* due and unpaid by reason of the said former partnership; upon which said discourse the said *Richard* and *Grace* affirmed, that the said *William* at the time of his death was not indebted to the said *Robert* in any sum of money whatever by reason of the first partnership: And thereupon the said *Richard* and *Grace*, in consideration of the sum of 5*s*. of lawful money of *England* to them by the said *Robert* in hand paid, assumed upon themselves, and to the same *Robert* then and there faithfully promised, that they other 5*s*. for every pound or 20*s*. and so after that rate for every greater or less sum, that from the said *William Lawrence* at the time of his death to the said *Robert* was due by reason of such first partnership, to the said *Robert*, when they should be thereto after required, would well and faithfully pay and content: And the said *Robert* in fact saith, that the sum of 211*l*. 18*s*. or some other sum of money, from the said *William Lawrence* at the time of his death to the said *Robert* was due and unpaid, to wit, at *London* aforesaid in the parish and ward aforesaid: Nevertheless the said *Richard* and *Grace* their several promises and assumptions aforesaid in form aforesaid respectively made not regarding, but contriving and fraudulently intending the said *Robert* in this behalf craftily and subtilly to deceive and defraud, the said several sums of money, or any penny thereof, to the same *Robert* have not, nor hath either of them paid, altho' to do it the said *Richard* and *Grace* afterwards, to wit, the 10th day of *October* in the 12th year aforesaid, and often after, at *London* aforesaid in the parish and ward aforesaid were required, but to pay him the same have hitherto refused, and yet do refuse, to the damage of the said *Robert* 40*l*. And therefore he produces the suit, &c.

As to the first, the plaintiff paid not more money in the partnership than he received.

As to the second, that the intestate was not indebted to plaintiff on the partnership account. Pract. Reg. 155.

Venire awarded to try both issues.

And the said *Richard* and *Grace*, by *S. P.* their attorney, come and defend the force and injury, when, &c. and say, that the said *Robert* ought not to have or maintain his action aforesaid thereof against them, because they say, that right and true it is that they did assume upon themselves in manner and form as the said *Robert* above against them hath declared, but the said *Richard* and *Grace*, as to the first promise and assumption in the declaration aforesaid above specified, for plea say, that the said *Robert* had not paid larger and more sums of money by reason of the said former partnership, than he on that account had before received: And of this they put themselves on the country: And the said *Robert* likewise, &c. And as to the second promise and assumption in the declaration aforesaid above specified, they for plea say, that the said *William* at the time of his death was not indebted to the same *Robert* in any sum of money whatever by reason of the said first partnership: And of this they put themselves on the country: And the said *Robert* thereof likewise, &c. Therefore to try as well that issue as the said other issue between the parties aforesaid above joined, let a jury thereon come before the Lord the King at *Westminster* on *Tuesday* next after five weeks of *Easter*; and who neither, &c. to recognize, &c. Because as well, &c. The same day is given to the parties aforesaid there, &c.

Palgrave, Bart. and Windbam, Esq;

Trin. 4. Rot. 557.

Case on the Stat. 8 Ann. c. 17. for the better security of rents and preventing frauds by tenants.

Norfolk, to wit. **F***Francis Windbam* late of *Cromer* in the county aforesaid, Esq; was attached to answer to *Richard Palgrave*, Bart. administrator of the goods and chattels which belonged to the Lady *Anne Palgrave* his late mother deceased, who died intestate, &c. in a plea of trespass on the case, &c. And whereon the same *Richard* by *Thomas Hare* his attorney complains, why whereas in a statute made in the Parliament of the Lady *Anne* late Queen of *Great Britain*, &c. held at *Westminster* in the county of *Middlesex* on the 8th day of *July* in the 8th year of the reign of the said late Queen, it was among other things enacted by the authority of the same Parliament, that from and after the first day of *May*, which should be in the year of our Lord 1710, no goods or chattels whatsoever

soever lying or being in or upon any messuage, lands or tenements, which were or should be leased for life or lives, term of years, at will or otherwise, should be liable to be taken by virtue of any execution on any pretence whatsoever, unless the party, at whose suit the said execution was sued out, should before the removal of such goods from off the said premises by virtue of such execution or extent, pay to the landlord of the said premises, or his bailiff, all such sum or sums of money as were or should be due for rent for the said premises at the time of the taking such goods or chattels by virtue of such execution, provided the said arrears of rent did not amount to more than one year's rent: And in case the said arrears should exceed one year's rent, then the said party, at whose suit such execution was sued out, paying the said landlord or his bailiff one year's rent, might proceed to execute his judgment as he might have done before the making of that act; and the sheriff or other officer was thereby impowered and required to levy and pay to the plaintiff, as well the money so paid for rent as the execution money, as by the statute in that case made and provided among other things more fully is manifest and appears: And whereas the said Lady Anne Palgrave after the making of the said act, to wit, on the 16th day of June 1712, had demised and to farm let unto one David Cook two messuages and 120 acres of land, with the appurtenances, situate, lying and being in Norwood Barningham Town, Barningham and Bodbam, in the said county of Norfolk; to hold and occupy to the same David and his assigns, from the feast of St. Michael the Archangel then last past until the end and term of one whole year from thence next following, and fully to be compleat and ended, and so from year to year, as long as both parties should please; yielding therefore yearly, as long as the said David the said two messuages and 120 acres of land with the appurtenances should occupy, to the said Lady Anne Palgrave, her heirs and assigns, the rent or sum of 70*l.* of lawful money of Great Britain, at the feast of the Annunciation of the blessed Virgin Mary and St. Michael the Archangel by equal portions to be paid: By virtue of which demise the said David into the said two messuages and 120 acres of land with the appurtenances entered and was thereof possessed, and the same occupied for the space of two years, and 70*l.* of the rent aforesaid, at the feast of St. Michael the Archangel in the year of the Lord 1713 for one whole year then ended, to the same Lady Anne Palgrave were due and in arrear and unpaid: And whereas the said Francis afterwards, to wit, the sixth day of October in the 12th year of the reign of the said Lady Anne late Queen of Great Britain, &c. at Norwood Barningham aforesaid, (he the said Francis then and yet being chief bailiff of the liberty of the dutchy of Lancaster in the county aforesaid) by virtue and pretence of a certain writ of *Fieri facias* of the goods and chattels of the said David, at the suit of one Erasmus Buck, sued out of the court of the said late Lady the Queen of the Bench (the same court at Westminster in the county of Middlesex then being) against the said David Cooke upon a judgment against him in the said court of the Bench aforesaid then before had and obtained, and to the then sheriff of the county of Norfolk directed, and by virtue of a warrant of the same sheriff in writing under his seal sealed, to the said Francis Windbam directed, he the said Francis afterwards, to wit, the said 6th day of October in the year aforesaid, at Norwood Barningham aforesaid and within the liberty aforesaid (the same Francis then being bailiff) took the goods and chattels of the said David Cooke in and upon the messuages and lands aforesaid, with the appurtenances, being to the value of 200*l.* And the same Richard farther says, that after the taking, and before the removal of the said goods and chattels by pretence of the warrant aforesaid, to wit, the same day, year and place last aforesaid, at Norwood Barningham aforesaid, she the said Lady Anne Palgrave in her life-time gave the same Francis notice of the rent aforesaid so as aforesaid to her due; and then and there the same Lady Anne demanded of the said Francis the rent aforesaid, according to the form of the statute aforesaid, out of those goods and chattels, which he the same Francis then and there refused to pay: And so the same Francis the statute aforesaid not valuing, nor the penalty in the same contained any ways fearing, but contriving and fraudulently intending the same Anne in her life-time, and the said Richard after the death of the said Anne, in this behalf craftily and subtilly to deceive and defraud, the said 70*l.* for the rent aforesaid for one whole year, ended at the feast of St. Michael the Archangel in the year of the Lord 1713 aforesaid, being in arrear and to the same Anne unpaid as aforesaid, (although often required) hath not paid nor any way contented, but the goods and chattels aforesaid, by pretence of the warrant aforesaid taken, the same Francis afterwards, to wit, the sixth day of October in the twelfth year of the late Queen aforesaid, took, carried away and removed off and from the tenements aforesaid, against the form of the statute in that case made and provided, the said 70*l.* for the rent aforesaid so as aforesaid due, or any part thereof, then not being paid: And the same Richard farther says, that the said Francis the said rent to the same Anne in her life-time, or to the said Richard after the death of the said Anne, (to which said Richard the administration of all and singular the goods and chattels which belonged to the said Anne at the time of her death, to wit, on the 11th day of the month of June in the year of the Lord 1716, at Norwood Barningham aforesaid after the

The act set forth.
No goods to be taken in execution unless the plaintiff before he remove such goods pay the landlord a year's rent.

Lease at will.

70*l.* Rent.

A year's rent due.

The defendant as high bailiff of the dutchy of Lancaster, by virtue of a warrant on a *Fieri facias*, took the tenant's goods on the premises to the value of 200*l.*

Notice of the rent arrear.

Breach of the statute.

Administra-
tion granted
to the plain-
tiff.
Pract. Reg.
37, 43.

the death of the said *Anne*, by *Thomas Tanner* professor of divinity, principal official of *Charles* Lord Bishop of *Norwich* lawfully constituted, in due form of law was committed) hath not paid, nor any way contented, but them to the same *Anne* in her life-time, and to the same *Richard* after the death of the said *Anne*, to pay or any way to content hath altogether refused, and yet doth refuse, to the damage of the said *Richard* 100 *l.* And therefore he produces the suit, &c. And he produces here in court the letters of administration aforesaid, which the commission of administration aforesaid to the same *Richard* in form aforesaid testify, &c.

Not guilty pleaded, and on trial a verdict for the plaintiff and 72 *l.* damages.

Whyte and Baynton.

Assumpsit a-
gainst two
partners on a
note given by
one for him-
self and the
other.

3 & 4 Ann.
c. 9.

Laid another
way.

London, to wit. **T** *Thomas Baynton* late of *London*, merchant, and *Robert Shaw* late of *London*, merchant, were attached to answer to *Samuel Whyte* in a plea of trespass on the case, &c. And whereon the same *Samuel* by *A. B.* his attorney complains, that whereas on the ninth day of *January* in the year of the Lord 1717, and before and afterwards, the said *Thomas* and *Robert* were partners in the way of merchandizing, jointly negotiating and using commerce together as partners, to wit, at *London* in the parish of *St. Mary le Bow* in the ward of *Cheape*, and they being so therein partners as aforesaid, the said *Thomas*, after the first day of *May* in the year of the Lord 1705, to wit, the ninth day of *January* in the year of the Lord 1717, at *London* aforesaid in the parish and ward aforesaid, according to the use of merchants, made a certain note in writing bearing date the same day and year, with his proper hand subscribed, and thereby for himself and the said *Robert Shaw* promised to pay to the said *Samuel* 200 *l.* one month after the date of the same note for value received of *Mr. David Whyte*; by reason whereof, and by force of the statute in such case made and provided, the said *Thomas* and *Robert* became chargeable to pay to the said *Samuel Whyte* the said 200 *l.* and being so chargeable the said *Thomas* and *Robert*, the said ninth day of *January* in the year above said, at *London* aforesaid in the parish and ward aforesaid, in consideration thereof assumed upon themselves, and to the same *Samuel Whyte* then and there faithfully promised, that they the said *Thomas* and *Robert* the same 200 *l.* to the said *Samuel Whyte*, according to the tenor of the said note, would well and faithfully pay and content: And whereas also the said *Thomas* and *Robert* so being partners as aforesaid, after the said first day of *May* in the year of the Lord 1705 above said, to wit, the said 9th day of *January* in the year of the Lord 1717 above said, at *London* aforesaid in the parish and ward aforesaid, according to the use of merchants, made their certain note in writing bearing date the same day and year, and thereby promised to pay to the said *Samuel Whyte* another 200 *l.* one month after the date of the same note for value received of *Mr. David Whyte*; by reason whereof, and by force of the statute in such case made and provided, the said *Thomas* and *Robert* became chargeable to pay to the said *Samuel Whyte* the said 200 *l.* last mentioned; and being so chargeable the said *Thomas* and *Robert*, the said 9th day of *January* in the year of the Lord 1717 above said, at *London* aforesaid in the parish and ward aforesaid, in consideration thereof assumed upon themselves, and to the same *Samuel* then and there faithfully promised, that they the said *Thomas* and *Robert* the same 200 *l.* to the same *Samuel*, according to the tenor of the said note, would well and faithfully pay and content: Nevertheless the said, &c.

The Mayor of the city of Coventry against Palmer and another.

Case against
the Mayor of
Coventry for
the ensigns of
mayoralty.

Plaintiff elect-
ed Mayor.

Midd, to wit. **J** *John Bennet*, Gent. Mayor of the city of *Coventry*, complains of *Thomas Palmer* late Mayor of the city of *Coventry* aforesaid, and *Edward Owen* pretended Mayor of the said city, in the custody of the marshal, &c. for this, to wit, that whereas the city of *Coventry* aforesaid is an ancient city, in which said city for many years now last past there was and now is a Mayor of the same city: And whereas also the ensigns of mayoralty of the city aforesaid, to wit, the mace and sword, and also the seal of the corporation of the city aforesaid, and likewise the keys of the council-house of the city aforesaid, to the place and office of Mayor of the city aforesaid do belong and appertain, and for divers years last past have belonged and appertained: And whereas also the said *John Bennet*, on the 13th day of *October* in the eighth year of the reign of the Lord *William* the Third, now King of *England*, &c. at the city of *Coventry* aforesaid in the county of the city of *Coventry* aforesaid, was duly elected into the place and office of Mayor of the city of *Coventry* aforesaid; and the same *John Bennet*, on the 1st day of *November* in the 8th year above said,

abovesaid, at the city aforesaid in the county of the city aforesaid, was duly admitted into the place and office aforesaid of Mayor of the city aforesaid, for one whole year then next following; and by that means the said ensigns of mayoralty of the city aforesaid, to wit, the mace and sword of the city aforesaid, and also the seal of the corporation of the city aforesaid, and likewise the keys of the council-house of the city aforesaid, to the same *John Bennett* do belong and appertain, and in his custody ought to remain during the whole time of his mayoralty: And altho' the said *John Bennett* on the said first day of *November* in the 8th year abovesaid, and often after, at the city of *Coventry* aforesaid in the county of the city of *Coventry* aforesaid, required the said *Thomas Palmer* and *Edward Owen* to deliver to him the said ensigns of mayoralty of the city aforesaid, to wit, the mace and sword of the city aforesaid, and also the seal of the corporation of the city aforesaid, and likewise the keys of the council-house of the city aforesaid: Nevertheless the said *Thomas Palmer* and *Edward Owen* the said ensigns of mayoralty of the city aforesaid, to wit, the mace and sword of the city aforesaid, and also the seal of the corporation of the city aforesaid, and likewise the keys of the council-house of the city aforesaid, to the said *John Bennett* to deliver have unduly and unjustly refused, and yet do refuse, to the great damage and grievance of the said *John Bennett*: And whereas also the said *John Bennett*, for the obtaining of the said ensigns of mayoralty of the city aforesaid, to wit, the mace and sword of the city aforesaid, and also the seal of the corporation of the city aforesaid, and likewise the keys of the council-house of the city aforesaid, afterwards, to wit, the 27th day of *November* in the 8th year of the reign of the said Lord the now King abovesaid, out of the court of the said Lord the now King before the King himself, the same court then being at *Westminster* in the county of *Middlesex* aforesaid, did obtain and prosecute a certain writ of the said Lord the now King of *Mandamus*, to the said *Thomas Palmer* late Mayor of the city aforesaid, and to *Edward Owen*, the pretended Mayor of the city aforesaid, directed; by which said writ the said Lord the King reciting, that whereas in the custody of the said *Thomas Palmer* and *Edward Owen*, or one of them, then remained the ensigns of mayoralty of the city aforesaid, to wit, the mace and sword of the city aforesaid, and also the seal of the corporation of the city aforesaid, and likewise the keys of the council-house of the city aforesaid, to the place and office of Mayor of the city aforesaid belonging and appertaining; and whereas also the said *John Bennett* was duly elected to the place and office of mayor of the city aforesaid on the said 13th day of *October* then last past, and was admitted into the place and office of Mayor of the city aforesaid on the said first day of *N.* then next following for one whole year then next following, to whom the ensigns of mayoralty of the city aforesaid, to wit, the mace and sword of the city aforesaid, and also the seal of the corporation of the city aforesaid, and likewise the keys of the council-house of the city aforesaid, do belong and appertain, and in his custody ought to remain during the whole time of his mayoralty; and altho' the said *John Bennett*, now Mayor, often required the said *Thomas Palmer* and *Edward Owen* to deliver to him the ensigns of mayoralty of the city aforesaid, to wit, the mace and sword of the city aforesaid, and also the seal of the corporation of the city aforesaid, and likewise the keys of the council-house of the city aforesaid: Nevertheless the said *Thomas Palmer* and *Edward Owen* the ensigns of mayoralty of the city aforesaid, to wit, the mace and sword of the city aforesaid, and also the seal of the corporation of the city aforesaid, and likewise the keys of the council-house of the city aforesaid, to the said *John Bennett* to deliver unduly and unjustly had refused, and then did refuse, in contempt of the said Lord the now King, and to the great damage and grievance of the said *John Bennett*, as on the complaint of the said *John Bennett* the same Lord the now King had heard: Therefore the said Lord the now King, being willing that due and speedy justice should be done to the said *John Bennett* in that behalf as was right, by the said writ commanded the said *Thomas Palmer* and *Edward Owen*, firmly injoining that they should immediately after the receipt of the said writ of the said Lord the King deliver, or cause to be delivered, the ensigns of the mayoralty aforesaid, to wit, the mace and sword aforesaid, and the seal of the corporation of the city aforesaid, and also the keys of the council-house of the city aforesaid, to the said *John Bennett*, or cause to the said Lord the now King should signify to the contrary, left in default of the said *Thomas Palmer* and *Edward Owen* complaint to the said Lord the King should come repeated; and how that writ of the said Lord the King should be executed, to the said Lord the King should make appear at *Westminster* aforesaid on Saturday next after the Octave of *St. Hillary*, the said writ of the said Lord the King to the same Lord the King then remitting; which said writ afterwards, and before the return of the same, to wit, on the first day of *December* in the 8th year of the reign of the said Lord the now King abovesaid, to the said *Thomas Palmer* and *Edward Owen* was delivered in form of law to be executed, to wit, at *Westminster* aforesaid in the county aforesaid: Nevertheless the said *Thomas Palmer* and *Edward Owen* the said ensigns of mayoralty of the city aforesaid, to wit, the mace, &c. or any of them, to the said *John Bennett* have not delivered, or caused to be delivered, according to the command of the writ aforesaid, but the

And required the defendants to deliver the same.

Which they refused.

Mandamus sued out.

False return,
that the plain-
tiff was not
elected, but
one of the de-
fendants.

Averment.

the same *Thomas Palmer* and *Edward Owen* the premisses well knowing, and farther contriving and falsly and maliciously intending the said *John Bennett* in this behalf to aggrieve, and of the custody and use of the said ensigns of mayoralty of the city aforesaid, to wit, the mace, &c. for the whole time of his mayoralty there to deprive, at the return of the writ aforesaid, to wit, on the said *Saturday* next after the Octave of *St. Hillary* in the 8th year of the reign of the said Lord the now King above said, falsly and maliciously returned to the said Lord the now King in the court of the said Lord the King before the King himself, the same court at *Westminster* aforesaid in the said county of *Middlesex* then being, their answer to the said writ in a certain schedule to the said writ annexed; by which said answer so returned, the said *Thomas Palmer* and *Edward Owen* to the said Lord the now King certified, that the said *John Bennett* was not elected into the office or place of Mayor of the city of *Coventry* aforesaid, as by the writ aforesaid was supposed: And farther, that the said *Edward Owen* on the said 13th day of *October* then last past into the place and office of Mayor of the city aforesaid was duly chose, and that he on the said first day of *November* into the office aforesaid was duly admitted for one whole year from thence next following; and that by reason thereof the said *Edward Owen*, then being Mayor of the city aforesaid, the ensigns of mayoralty of the said city, and the seal of the corporation of the said city, and the keys of the council-house, during the whole time of the said mayoralty of the said *Edward Owen*, which then was not past, ought to keep, and that therefore the same to the said *John Bennett* they had not delivered, nor ought to deliver, as by the writ aforesaid, and the return thereof, in the said court of the said Lord the now King before the King himself at *Westminster* aforesaid on record filed and remaining, more fully appears; when in truth and in fact the said *John Bennett* was duly elected and admitted into the office and place of Mayor of the city of *Coventry* aforesaid, as by the said writ was supposed, and when in truth and in fact the said *Edward Owen* was not duly elected or admitted into the place and office of Mayor of the city aforesaid, as by the return aforesaid is above supposed: By pretence of which said false return so as aforesaid made, the said *John Bennett* not only of the custody and use of the said ensigns of mayoralty of the city aforesaid, to wit, the mace and sword, and also the seal of the corporation of the city aforesaid, and also the keys of the council-house of the city aforesaid, and of his remedy for the obtaining of the same, is deprived, but also large sums of money in the obtaining and prosecution of the said writ of *Mandamus* hath paid and laid out, and by that means is greatly prejudiced, to the damage of the said *John* 200 *l.* And therefore he produces the suit, &c.

Booge against Edwards.

Assumpsit by
an executrix
against an ex-
ecutrix for
work done.

London, to wit. *Susanna Edwards* late of *London*, widow, executrix of the last will and testament of *John Edwards* her late husband deceased, was attached to answer to *Deborah Booge* widow, executrix of the last will and testament of *John Booge* her late husband deceased, in a plea of trespass on the case, &c. And whereon the said *Deborah* by *E. G.* her attorney complains, why whereas the said *John Booge* in his life-time, to wit, on the 20th day of *January* in the year of the Lord 1715 at *London* aforesaid, to wit, in the parish of *St. Mary le Bow* in the ward of *Cheape*, at the special instance and request of the said *John Edwards* in his life-time, the work and labour of the said *John Booge* had given and bestowed in and about divers affairs of the said *John Edwards*, he the said *John Edwards* in his life-time in consideration thereof afterwards in the life-time of the said *John Booge*, to wit, the same day and year aforesaid in the parish and ward aforesaid, assumed upon himself, and to the said *John Booge* then and there faithfully promised, that he the said *John Edwards* all such sums of money, as the said *John Booge* for his work and labour in and about the affairs aforesaid, so as aforesaid given and bestowed, reasonably deserved to have, to the same *John Booge*, when he should be thereto after required, well and truly would pay and content: And the same *Deborah* in fact says, that the said *John Booge* in his life-time, to wit, the same day and year aforesaid, at *London* aforesaid in the parish and ward aforesaid, reasonably deserved to have 200 *l.* of lawful money of *Great Britain* for the work and labour aforesaid of him the said *John Booge* so as aforesaid given and bestowed, whereof the said *John Edwards* afterwards in his life-time, to wit, the same day and year aforesaid, at *London* aforesaid in the parish and ward aforesaid, had notice. Nevertheless the said *John Edwards* in his life-time, and the said *Susanna* after the death of the said *John Edwards*, the several promises and assumptions of the said *John Edwards* so as aforesaid made not regarding, but contriving and fraudulently intending the same *John Booge* in his life-time, and the said *Deborah* after the death of the said *John Booge* in this behalf craftily and subtilly to deceive and defraud, the said several sums of money, or any penny thereof, to the said *John Booge* in his life-time, or to the said *Deborah*

Deborah after the decease of the said *John Booge*, have not paid, nor hath either of them paid, or for the same have hitherto contented, or hath either of them contented, (altho' to do it the said *John Edwards* in his life-time afterwards, and in the life-time of the said *John Booge*, to wit, the day and year aforesaid, at *London* aforesaid in the parish and ward aforesaid, by the said *John Booge* was required, and altho' also to do it the said *John Edwards* in his life-time afterwards, after the death of the said *John Booge*, to wit, on the first day of *April* in the year of the Lord 1718, at *London* aforesaid in the parish and ward aforesaid, by the said *Deborah* was likewise requested, and altho' also to do it the said *Susanna* afterwards, after the death of the said *John Edwards* and *John Booge*, to wit, on the first day of *August* in the year of the Lord 1718, and often after, at *London* aforesaid in the parish and ward aforesaid, was required); whereby the said *Deborah* says she is prejudiced, and hath damage to the value of 200*l*. And therefore she produces the suit, &c. And the said *Deborah* produces here in court the letters testamentary of the said *John Booge* aforesaid, whereby it sufficiently appears to the court here that the said *Deborah* is executrix of the said will of the said *John Booge*, and thereof hath the administration, &c.

West and West.

Midd, to wit. *Samuel West*, Gent. Mayor of the borough of *Banbury* in the county of *Oxford*, complains of *John West* late Mayor of the borough aforesaid, in the custody of the marshal, &c. for this, to wit, that whereas the borough of *Banbury* aforesaid is an ancient borough, in which said borough for many years now last past there was and yet is a Mayor of the said borough: And whereas also all charters, books, records, muniments and ensigns of magistracy of the borough aforesaid, to the place and office of mayor of the borough aforesaid do belong and appertain, and for divers years now last past have belonged and appertained: And whereas also the said *Samuel West* on the day of in the year of the reign of the Lord *William* the Third, now King of *England*, &c. at the borough of *Banbury* aforesaid in the county of *Oxford* aforesaid, was duly elected into the place and office of Mayor of the borough aforesaid, and the same *Samuel* afterwards at the borough of *Banbury* aforesaid in the county of *Oxford* aforesaid was admitted into the place and office aforesaid of Mayor of the borough aforesaid for one whole year from thence next following, and for that reason the charters, books, records, muniments and ensigns of magistracy of the borough aforesaid, to the same *Samuel West* do belong and appertain, and in his custody ought to remain during the whole time of his mayoralty aforesaid: And altho' the said *Samuel West* on the said day of in the year above said, at the borough of *Banbury* aforesaid in the county of *Oxford* aforesaid, required the said *John West* to deliver to the same *Samuel West* the said charters, books, records, muniments and ensigns of magistracy of the borough aforesaid; yet the said *John West* those charters, books, records, muniments and ensigns of magistracy, to the same *Samuel West* to deliver hath unduly and unjustly refused and still doth refuse, to the great damage and grievance of the said *Samuel West*: And whereas also the said *Samuel West* for the obtaining of the said charters, books, records, muniments and ensigns of magistracy of the borough aforesaid, afterwards, to wit, the 10th day of *April* in the 12th year of the reign of the Lord the now King, out of the court of the said Lord the now King before the King himself (the same court then being at *Westminster* aforesaid in the said county of *Middlesex*) obtained and prosecuted a certain writ of the said Lord the now King of *Pluries mandamus* to the said *John West* directed, by which said writ the same King reciting, that whereas into the custody of the said *John West* then lately were delivered and then remained divers charters, books, records, muniments and ensigns of magistracy, to the borough of *Banbury* aforesaid in the said county of *Oxford* belonging and appertaining, which ought to be delivered to the said *Samuel West* for the use and benefit of the same borough, and that the said *Samuel*, then Mayor of the borough aforesaid, had often required him the said *John West* to deliver to him the said *Samuel West* the said charters, books, records, muniments and ensigns of magistracy to the borough aforesaid belonging and appertaining, for the use and benefit of the said borough, and the said *John West* well knowing the premisses, but not regarding them, the said charters, books, records, muniments and ensigns of magistracy to the borough aforesaid belonging, and in his custody, in his possession unjustly detained, and the same charters, books, records, muniments and ensigns of magistracy to the said *Samuel* to deliver unjustly refused, in contempt of the said Lord the King, and to the great damage and grievance of the said *Samuel*, and to the manifest injury of his estate, as by the complaint of the said *Samuel* the said Lord the King had heard: The same Lord the King therefore, willing that due and speedy justice should be done to the said *Samuel* in that behalf as was right, commanded the said *John West* as he had before commanded him, by firmly injoining, that immediately after the receipt of the said writ all and singular the charters, books, records, muniments and ensigns of magistracy to the said borough belonging, and being in his custody, to the said *Samuel West* for the use and benefit of the same borough he should deliver

Case against the old Mayor for the charter books, ensigns of mayoralty, &c.

Pluries mandamus sued out.

or

or cause to be delivered, or cause to the said Lord the King should signify to the contrary, lest in default of the said *John West* complaint to the said Lord the King should come reiterated; and in what manner the same *John West* had executed the said precept of the said Lord the King, should certify to the said Lord the King at *Westminster* on day next after under the penalty of 80 l. (the said writ of the said Lord the King to the said Lord the King then remitting); which said writ afterwards, and before the return thereof, to wit, the nineteenth day of *April* in the twelfth year of the reign of the said now Lord the King abovesaid, to the said *John West* was delivered in form of law to be executed, to wit, at *Westminster* abovesaid in the county of *Middlesex* abovesaid: Nevertheless the said *John West* the said charters, books, records, muniments and ensigns of magistracy to the said borough belonging, to the said *Samuel* hath not delivered, or caused to be delivered, according to the command of the said writ; but the said *John West* the premisses well knowing, and farther contriving and falsly and maliciously intending the said *Samuel West* in this behalf to aggrieve, and of the custody and use of the said charters, books, records, muniments and ensigns of magistracy to the said borough belonging, for the whole time of his mayoralty there to deprive, at the return of the writ abovesaid, to wit, on *Friday* next after in the 12th year of the reign of the said Lord the now King abovesaid, falsly and maliciously returned to the said Lord the now King into the court of the said Lord the now King before the King himself, the same court at *Westminster* in the said county of *Middlesex* then being, his answer to the said writ; by which said answer so returned the said *John West* to the said Lord the now King certified, that divers records and ensigns of magistracy of the borough of *Banbury* abovesaid were delivered to the said *John West* as Mayor of the said borough, and by reason thereof came to the hands of the said *John West*, and in his custody then remained by the same reason and not otherwise, for the use and benefit of the same borough, according to the custom of the said borough for time immemorial used; and that no charters, books, records or muniments in the writ abovesaid named, which by reason of the office of him the said *John West* to him the said *John West* ought to have been delivered, ever were in his custody: And the same *John West* farther certified, that the said *Samuel West* in the writ abovesaid named, at the time of the date or *teste* or issuing of the said writs, or either of them, was not, nor ever after was, nor then was, Mayor of the borough of *Banbury* abovesaid; and for that reason the charters, books, records, muniments and ensigns of magistracy of the borough abovesaid, or any of them, to the same *Samuel West* he could not deliver nor ought to deliver, as by the writ abovesaid and return thereof, in the said court of the said Lord the now King before the King himself, at *Westminster* abovesaid, on record filed and remaining, more fully appears; when in truth and in fact the said *Samuel West* was duly elected and admitted into the place and office of Mayor of the borough of *Banbury* abovesaid in the county abovesaid, as by the writ abovesaid is above supposed, to wit, the day of in the year abovesaid, at *Banbury* abovesaid in the county abovesaid; and that he the said *Samuel*, at the time of the date or *teste* and issuing of the said first writ of *Mandamus* in the writ abovesaid mentioned, to wit, the day of in the year of the reign of the said Lord the now King, and from thence continually afterwards, was and now is Mayor of the borough of *Banbury* abovesaid, to wit, at *Banbury* abovesaid in the said county of *Oxford* abovesaid, and by reason thereof all charters, books, records, muniments and ensigns of magistracy of the borough abovesaid, to him the said *Samuel* as Mayor of the borough abovesaid ought to be delivered, and when in truth and in fact the said *John West*, at the said time of the date or *teste* and issuing of the said first writ of *Mandamus* in the writ abovesaid mentioned, to wit, the said day of in the year of the reign of the said Lord the now King abovesaid, nor at any time afterwards hitherto, was or is Mayor of the borough of *Banbury* abovesaid; and when in truth and in fact the same *John West*, at the said time of the date or *teste* and issuing of the said first writ of *Mandamus* in the writ abovesaid mentioned, had and from thenceforth continually hitherto has in his hands divers charters, books, records and muniments to the said borough belonging in the said writ named: By pretence of which said false return, the said *Samuel West* not only of the custody and use of the said charters, books, records, muniments and ensigns of magistracy of the borough of *Banbury* abovesaid, and of his remedy for the obtaining of the same, is deprived, but also large sums of money in the obtaining and prosecution of the said writ of *Mandamus* hath expended and paid, and by that means is greatly prejudiced, to the damage of the said *Samuel West* 400 l. And therefore he produces the suit, &c.

The return thereof.

Averment.

Warner against Riddall.

London, to wit. **F**inch Riddall late of London, Gent. was attached to answer unto *Anne Warner* widow, executrix of the will of *Robert Warner* deceased, in a plea of trespass on the case: And whereon the same *Anne* by *A. B.* her attorney complains, why whereas the said *Robert* in his life-time, to wit, on the 10th day of *November* in the year of the Lord 1698, and always after, in his life-time used and exercised the art or mystery of a mariner; and one *Humphry Crawley*, then the apprentice of the said *Robert*, in that art and mystery for a long time before had educated, taught and instructed, and him the said *Humphry* in that art or mystery had made learned and expert: And whereas afterwards, to wit, 7th day of *August* 1702, the said *Finch* was master of a certain ship called then riding at anchor in the port of *London* aforesaid; which said ship was then ready, designed and appointed for a certain voyage under the command of the said *Finch* to be navigated, made and performed, from the port of *London* aforesaid to the *East Indies* in parts beyond the seas, there to be loaded, and after the loading of the said ship in the *East Indies* aforesaid, from the *East Indies* aforesaid unto the port of *London* aforesaid under the command of the said *Finch* to be navigated and return: The said *Finch* afterwards the same 7th day of *August* in the year of the Lord 1702 aforesaid, at *London* aforesaid in the parish of *St. Mary le Bow* in the ward of *Cheape*, in consideration that the same *Robert* in his life-time, at the special instance and request of the said *Finch*, would permit the said *Humphry*, then being the apprentice of the said *Robert* in his life-time as aforesaid, to serve the said *Finch* in the ship aforesaid in the art or mystery aforesaid during his said voyage as aforesaid to be made and performed, assumed upon himself, and to the said *Robert* then and there faithfully promised, that he the said *Finch*, when he should be thereto required after that voyage made and performed, would pay to the said *Robert*, for the service of the said *Humphry* so as aforesaid to be performed, according to the rate of 55 s. of lawful money of *England* for every month that he the said *Humphry* should serve as aforesaid; and altho' the same *Robert* in his life-time, giving credit to the faithful performance of the promise and assumption of the said *Finch* aforesaid, did permit the said *Humphry* to serve the said *Finch* in the said ship during the voyage aforesaid in form aforesaid to be made and performed; and altho' also the ship aforesaid, after the promise and assumption aforesaid in form aforesaid made, from the port of *London* aforesaid to the *East Indies* aforesaid did sail, and there afterwards on the first day of *April* 1704 was loaded, and after the loading thereof from the *East Indies* aforesaid to the port of *London* arrived, and there afterwards, to wit, on the first day of *December* 1705 the voyage aforesaid performed and finished; and altho' also the said *Humphry* during the same voyage, to wit, for the space of 23 months and 9 days served the said *Finch* in the said ship in form aforesaid, to wit, at *London* aforesaid in the parish and ward aforesaid, and 65 l. 1 s. 8 d. of lawful money of *England* to the same *Robert* in his life-time for the service of the said *Humphry*, according to the rate aforesaid, during the said term that the said *Humphry* so as aforesaid served the said *Finch* in the voyage aforesaid, according to the said promise and assumption of the said *Finch* were due and payable: Nevertheless the said *Finch* (altho' he after the voyage aforesaid made and performed, to wit, on the 2d day of *December* in the year of the Lord 1705 aforesaid, at *London* aforesaid in the parish and ward aforesaid, by the said *Robert* in his life-time was required) the said 65 l. 1 s. 8 d. or any penny thereof, to the same *Robert* in his life-time, or to the said *Anne* after the death of the said *Robert*, hath not paid: And whereas also the said *Finch* the said 2d day of *December* in the year of the Lord 1705 aforesaid, at *London* aforesaid in the parish and ward aforesaid, was indebted to the same *Robert* in his life-time in other 65 l. 1 s. 8 d. of like money for work, labour and service by the said *Humphry*, as servant of the said *Robert* in his life-time for the said *Finch*, and at his special instance and request before that time done and performed; and being so therein indebted the said *Finch* afterwards, to wit, the said 2d day of *December* in the year of the Lord 1705 aforesaid, at *London* aforesaid in the parish and ward aforesaid, in consideration thereof assumed upon himself, and to the same *Robert* in his life-time then and there faithfully promised, that he the said *Finch* the said 65 l. 1 s. 8 d. to the same *Robert*, when he should be thereto after required, would well and faithfully pay and content: And whereas also the said *Finch* the said 2d day of *December* in the year of the Lord 1705 aforesaid, at *London* aforesaid in the parish and ward aforesaid, in consideration that the said *Humphry*, as servant of the said *Robert* in his life-time, had worked and laboured for and served the said *Finch* in the art or mystery of a mariner aforesaid, assumed upon himself, and to the same *Robert* in his life-time faithfully promised, that he the said *Finch* so much money as the said *Humphry* for the work, labour and service aforesaid reasonably deserved to have, to the same *Robert*, when he should be thereto after required, would well and faithfully pay and content: And the same *Anne* in fact says,

Case against the matter of a vessel by an executrix for wages due to her husband's apprentice on a voyage to the *East Indies*.

The agreement.

That he performed the voyage.

that the said *Humbry*, as servant of the said *Robert* in his life-time, for the work, labour and service last mentioned, deserved to have of the said *Finch* other 65*l.* 1*s.* 8*d.* of like money: Nevertheless the said *Finch* his several promises and assumptions aforesaid in form aforesaid made not regarding, but contriving and fraudulently intending the same *Robert* in his life-time, and the said *Anne* after the death of the said *Robert*, in this respect craftily and subtilly to deceive and defraud, the said several sums of money, or any penny thereof, to the same *Robert* in his life-time, or to the said *Anne* after the death of the said *Robert*, or to either of them, hath not paid, or for the same any way contented, (altho' to do it the said *Finch* by the said *Robert* in his life-time, and by the said *Anne* after the death of the said *Robert*, at *London* aforesaid in the parish and ward aforesaid, was required,) but to pay them the same, or for the same any way to content, hath altogether refused, and yet doth refuse, to the damage of the said *Anne* 100*l.* And therefore she produces the suit, &c. And the same *Anne* produces here in court the letters testamentary of the said *Robert*, whereby it sufficiently appears to the court here, that the said *Anne* is executrix of the will of the said *Robert*, and thereof hath the administration, &c.

Kirkman and Robinson.

Assumpsit by a master of a vessel for freight.

London, to wit. **R**alph Robinson late of *London*, merchant, was attached to answer *Simon Peter Kirkman* in a plea of trespass on the case, &c. And whereon the said *Simon Peter* by *T. W.* his attorney complains, why whereas the said *Ralph* on the first day of *January* in the second year of the reign of the Lord *George* now King of *Great Britain*, &c. at *London* aforesaid in the parish of *St. Mary le Bow* in the ward of *Cheape*, in consideration that the said *Simon Peter*, at the special instance and request of the said *Ralph*, had carried and transported for the said *Ralph* divers goods, wares and merchandizes, in a certain ship or vessel called the *John* and *Catherine* from *Archangel* in parts beyond the seas to *London* aforesaid, assumed upon himself, and to the said *Simon Peter* then and their faithfully promised, that he the said *Ralph* all such sums of money, as he the same *Simon Peter* therefore reasonably deserved to have, to the same *Simon Peter*, when he should be thereto after required, would well and faithfully pay and content: And the same *Simon Peter* in fact says, that he therefore reasonably deserved to have of the same *Ralph* 250*l.* of lawful money of *Great Britain*, to wit, at *London* aforesaid in the parish and ward aforesaid, whereof the said *Ralph* then and there by the said *Simon Peter* had notice: Nevertheless the said *Ralph*, &c.

Shearman against Wright.

Assumpsit on a promissory note brought against the indorser.

Indorsement.

Notice to the drawer, who refused payment.
Pract. Reg.
155.

London, to wit. **W**illiam Wright late of *London*, farrier, was attached to answer *Thomas S.* in a plea of trespass on the case, &c. And whereon the said *Thomas* by *N. B.* his attorney complains, that whereas after the first day of *May* in the year of the Lord 1705, to wit, 23d day of *May* 1715, at *London* in the parish of *St. Mary le Bow* in the ward of *Cheape*, one *E. S.* made his certain note in writing, called a promissory note, with the proper hand of the said *E. S.* subscribed, bearing date the same day and year last abovesaid, and the same note to the said *William Wright* delivered, by which said note the said *E. S.* promised to pay to the said *William Wright*, or order, the sum of 20*l.* three months after date, for value received; and afterwards, and within the said three months, to wit, 23d day of *July* in the year abovesaid, at *London* aforesaid in the parish and ward aforesaid, the said *William Wright*, by his indorsement with his own proper hand subscribed and made upon the same note, assigned that note to the said *Thomas S.* and by the said indorsement ordered the said *E. S.* to pay the contents of the same note to the said *Thomas S.* according to the tenor of the same note: And the said *Thomas* in fact says, that after the assignment and appointment aforesaid as aforesaid made, and after the expiration of the said three months in the same note mentioned, to wit, 23d day of *August* in the year last abovesaid, at *London* aforesaid in the parish and ward aforesaid, he the said *Thomas* shewed the bill aforesaid, and the indorsement aforesaid on the said bill, to the said *E. S.* and then and there required the same *Edward* to pay the contents of the said bill, to wit, the said sum of 20*l.* in the same specified, according to the tenor of the said bill, and the indorsement aforesaid, to the said *Thomas S.* but the same *E. S.* the same sum of money to the said *Thomas* did not pay, nor hath yet paid, but to pay the same sum of money to the said *Thomas* the said *Edward* then and there, to wit, the same day and

and year last above said, and ever after, hitherto hath refused, whereof the said *Thomas* afterwards, to wit, 24th day of *August* in the year last above said, at *London* afore said in the parish and ward afore said, gave notice to the said *William Wright*: And by reason of the premisses, and also by force of the statute in such case made and provided, the said *William W.* became and was liable and is liable to pay to the same *Thomas* the said sum of 20*l.* in the same note mentioned; and so being liable the said *William Wright* in consideration thereof afterwards, to wit, the same 24th day of *August* in the year last above said, at *London* afore said in the parish and ward afore said, assumed upon himself, and to the said *Thomas* then and there faithfully promised, that he the said *William* the said sum of 20*l.* to the same *Thomas*, when he should be thereto after required, would well and faithfully pay and content: And whereas also the said *William W.* afterwards, to wit, the same 24th day of *August* in the year last above said, was indebted to the same *Thomas* in other 20*l.* of like money, for money by the said *W. W.* to the use of the said *Thomas* before that time had and received; and being so therein indebted the same *William* in consideration thereof afterwards, to wit, the same day and year last above said, at *London* afore said in the parish and ward afore said, assumed upon himself, and to the same *Thomas* then and there faithfully promised, that he the same *William W.* the same last mentioned 20*l.* to the said *Thomas*, when he should be thereto afterwards required, would well and faithfully pay and content: Nevertheless the said *William*, &c.

Notice to the defendant.

3 & 4 Anne, c. 9.

Count for 20*l.* received by defendant to plaintiff's use.

Soutb'ton, to wit. **M.** *L.* complains of *J. S.* in the custody of the marshal, &c. for this, to wit, that whereas the same *M.* was on the first day of *January* in the 26th year of the reign of *Charles* the Second, now King of *England*, &c. unto the 20th day of *October* in the 27th year of the reign of the laid Lord the King, seised in his demean as of fee of certain water-mills, commonly called *S. Mills* otherwise *K. Mills*, and of a parcel of moor or meadow, containing by estimation three acres or thereabouts, near adjoining to the said mills, with the appurtenances, in *A.* in the county afore said; and the same *M. L.* and all they whose estate the same *M.* hath, in the mills and parcel of moor or meadow afore said have had and ought to have, and from time immemorial have been accustomed and ought to have, the benefit of a certain water or water-course which comes from a spring near, and increases a certain water-course or river which runs to other mills in *A.* afore said, and from thence to the mills afore said, called *S. Mills*, otherwise *K. Mills*, and the said *J. S.* well knowing the premisses, but maliciously contriving and fraudulently intending him the said *M.* of the profit and commodity of his mills afore said and parcel of moor or meadow afore said altogether to deprive, on the 11th day of *September* in the 26th year of the reign of the Lord the now King, at *A.* afore said, the bank or the inclosure of the water or water-course afore said, which comes from the spring afore said, and increases the water-course or river which runs from those mills in *A.* afore said to the said mills, called *S. Mills*, otherwise *K. Mills*, so much broke and threw down, or caused to be broke and thrown down, and the water afore said so much diverted or caused to be diverted, that by means of the said breaking, throwing down and diversion, the said mills, called *S. Mills*, otherwise *K. Mills*, for want of sufficient water running in the antient course, could not grind or work so well or commodiously, and the said parcel of moor or meadow afore said was greatly drowned and overflowed, whereby the same *M.* lost great part of the profits of the said mills and parcel of moor or meadow afore said for a long time, to wit, divers days and times between the said 11th day of *September* in the 27th year above said, and the said 20th day of *October* above said, whereby he says that he is prejudiced, and hath damage to the value of 100*l.* And therefore he produces the suit, &c.

For diverting an ancient water-course so that the plaintiff lost the benefit of his mill.

And the said *J. S.* by *J. L.* his attorney comes and defends the force and injury when, &c. and says that he is not guilty thereof: And of this he puts himself upon the country: And the said *M.* thereof likewise, &c. Therefore let a jury thereon come before the Lord the King at *Westminster* on *Friday* next after the morrow of the purification of the blessed *Mary*; and who neither, &c. to recognise, &c. because as well, &c. The same day is given to the parties afore said there, &c.

Dunstar against *Peirce*.

London, to wit. **W** *Illiam Dunstar* complains of *Edward Peirce*, being in the custody of the marshal of the *Marshalsey* of the Lord the King before the King himself, for this, to wit, that whereas the said *Edward Peirce* and one *John Treverse* now deceased, on the 9th day of *May* in the year of the Lord 1673, being merchants at *Seraleon* in parts beyond the seas, to wit, at *London* afore said in the parish of *St. Mary le Bow* in the ward of *Cheape*, by their bill of exchange then and there with their own proper hands subscribed, and directed to the committee of the *Gamboa* company, required and appointed the said committee to pay to the said *William*, or his order, on sight of that bill, his second or third

Cafe on a foreign bill of exchange against the drawer. Lutw. 946, 950. Drawn on the Gamboa company. bill

bill of the same time and date with the bill aforesaid not being paid, the sum of 65*l.* 4*s.* being for the like value there received: And whereas also afterwards, to wit, on the 1st day of *September* in the year last aforesaid, at *London* aforesaid in the parish and ward aforesaid, the said bill of exchange was shewed to the said committee of the *Gamboa* company, and the same committee were then and there required to accept the said bill according to the use of merchants, and to make payment of the said 65*l.* 4*s.* to him the said *William*, according to the form and effect of that bill: And whereas also the committee aforesaid then and there refused to accept of the said bill and to pay the said 65*l.* 4*s.* the second and third bill, or either of them, being then and yet unaccepted and unpaid; by reason of which said premisses, according to the custom among merchants from time immemorial used and approved, to wit, at *London* aforesaid in the parish and ward aforesaid, the said *Edward* and *John* ought to have paid the said 65*l.* 4*s.* to him the said *William*; and the said *Edward* and *John* in consideration of the premisses then and there assumed upon themselves, and to the said *William* then and there faithfully promised, to pay him the said *William* the said 65*l.* 4*s.* when they should be thereto after required: Nevertheless the said *Edward* and *John* in the life-time of the said *John*, and the said *Edward* after the death of the said *John*, have not paid the said 65*l.* 4*s.* to the same *William*, although often required, &c. but the said *Edward* and *John* in the life-time of the said *John*, and the said *Edward* after the death of the said *John*, have altogether refused to pay them to the said *William*, and the said *Edward* doth yet refuse to pay him them: And whereas the said *Edward* and *John* Treverse in the life-time of the said *John*, to wit, the said 9th day of *May* in the year 1673 aforesaid, at *London* aforesaid in the parish and ward aforesaid, were indebted to the said *William* in other 65*l.* 4*s.* of lawful money of *England*, for so much money by them the said *Edward* and *John* in the life-time of the said *John*, to the use of the said *William* before that time had and received; and the said *Edward* and *John* in consideration thereof then and there assumed upon themselves, and to the said *William* then and there faithfully promised, that they the same *Edward* and *John* the same 65*l.* 4*s.* to the said *William*, when they should be thereto after required, would well and faithfully pay and content: Nevertheless the said *Edward* and *John* in the life-time of the said *John* not regarding their several promises and assumptions aforesaid in form aforesaid made, but contriving and fraudulently intending him the said *William* in this respect craftily and subtilly to deceive and defraud, the said *Edward* and *John*, or either of them, in the life-time of the said *John*, or the said *Edward* after the death of the said *John*, although often required, &c. have not, nor hath either of them, paid the said several sums of money, or any penny thereof, but the said *Edward* and *John*, and either of them, in the life-time of the said *John*, and the said *Edward* after the death of the said *John*, and either of them, have hitherto altogether refused to pay him them, and the said *Edward* doth yet altogether refuse to pay him them, to the damage of the said *William* 200*l.* And therefore he produces the suit, &c. With this, that the said *William* Dunstar will verify, that at the said time of making the bill aforesaid, and long before and after, there was at *London* aforesaid, to wit, in the parish and ward aforesaid, a certain company of merchants, called and known by the name of the Committee of the *Gamboa* company, to which said company by that name bills of exchange for all that time were used to be directed and charged according to the use and practice among merchants, &c.

And now at this day, to wit, *Wednesday* next after fifteen days of *Easter* this same term, until which day the said *Edward* Peirce had leave to imparl to the said bill, and then to answer, &c. before the Lord the King at *Westminster* comes as well the said *William* Dunstar by his attorney aforesaid, as the said *Edward* Peirce by *Dutton* Seaman his attorney: And the same *Edward* defends the force and injury when, &c. And as to the first promise and assumption in the declaration of the said *William* aforesaid abovementioned, he the same *Edward* prays judgment of the declaration aforesaid, because he says, that the declaration aforesaid and the matter in the same contained are not sufficient in law to maintain the action of him the said *William* thereof against him the said *Edward* had, to which said declaration, as to the said first promise and assumption in the declaration of the said *William* abovementioned, the same *Edward* hath no necessity nor is by the law of the land obliged any way to answer: And this he is ready to verify: Wherefore for want of a sufficient declaration in this respect, as to the said first promise and assumption in the declaration of him the said *William* abovementioned, he the same *Edward* prays judgment, and that the said *William* may be precluded from having his action thereof against him the said *Edward* as to the first promise and assumption in the declaration of him the said *William* abovementioned: And as to the second promise in the declaration of him the said *William* above likewise

who refused
to accept it.

Breach.

General in-
debitatus.

Averment.

Demurrer to
the first count.

Non assumpsit
to the second.

likewise mentioned, the same *Edward* says, that he did not assume upon himself in the manner and form as the said *William* hath above against him declared: And of this he puts himself upon the country: And the said *William* thereof likewise, &c.

And the said *William* says, that he by any thing by the said *Edward* in pleading alledged, Joinder in de: as to the first promise and assumption in the declaration aforesaid above mentioned, ought ^{murder.}

not to be precluded from having his said action thereof against him, because he says, that the declaration aforesaid, and the matter in the same contained, as to the said first promise and assumption, are good and sufficient in law to maintain the action of him the said *William* thereof against the said *Edward* had; which said declaration, and the matter therein contained, he the said *William* is ready to verify and prove, as the court, &c. And because the said *Edward* doth not answer to that declaration, nor hitherto any way deny it, he the same *William* as before prays judgment and his damages by reason of those premisses to be adjudged to him, &c. But because the court of the said Lord the King now here are not yet advised to give their judgment of and upon the premisses, whereof the parties aforesaid have put themselves on the judgment of the court, day therefore is given to the parties aforesaid, before the Lord the King at *Westminster* until *Friday* next after the morrow of the Holy Trinity, to hear their judgment of and upon those premisses, because the court of the said Lord the King now here thereof not yet, &c. And to try as well the issue aforesaid between the parties aforesaid above joined by the country to be tried, as to inquire what damages the said

Peirce to try the issue and inquire of damages.

William hath sustained by reason of the premisses aforesaid, whereof the parties aforesaid have put themselves on the judgment of the court, if it happens that judgment thereon be given for the said *William* against the said *Edward Peirce*, let a jury thereon come before the Lord the King at *Westminster* on the said day; and who neither, &c. to recognize, &c. because as well, &c. The same day is given to the parties aforesaid there, &c. At which day before the Lord the King at *Westminster* comes as well the said *William* as the said *Edward* by

Nolle prosequi as to part. 1 Plow. 4, 20. Pract. Reg. 218, 220.

their attornies aforesaid; and the said *William* acknowledges here in court that he will not farther prosecute against him the said *Edward* as to the second promise and assumption in his bill aforesaid above mentioned; and as to the said first promise and assumption in the declaration aforesaid above mentioned, whereof the parties aforesaid have put themselves on the judgment of the court, because the court of the said Lord the King here is not yet advised to give their judgment of and upon the premisses, day therefore is given to the parties aforesaid, before the Lord the King at *Westminster*, until *Thursday* next after three weeks of *St. Michael*, to hear their judgment thereof, because the court of the said Lord the King now here thereof not yet, &c. On which day before the Lord the King at *Westminster* come the

Judgment for the plaintiff.

parties aforesaid by their attornies aforesaid, on which the premisses aforesaid, as to the first promise and assumption aforesaid in the declaration aforesaid above mentioned, whereof the parties aforesaid have put themselves on the judgment of the court, being seen, and by the court of the said Lord the King now here more fully understood, because it seems to the court of the said Lord the now King here, that the declaration aforesaid, and the matter in the same contained, as to that promise and assumption, are good and sufficient in law to maintain the action of him the said *William* thereof against the said *Edward* had, it is considered that the said *William* ought to recover his damages against the said *Edward*: But because the court of the said Lord the now King here doth not know what damages the said

William hath sustained by reason of the premisses aforesaid, the sheriffs are therefore commanded that they diligently inquire by the oath of 12 good and lawful men of their bailiwick, what damages the said *William* hath sustained, as well by reason of the non-performance of the first promise and assumption aforesaid, as for his costs and charges by him about his suit in this respect laid out, and send the inquisition, which, &c. to the Lord the King at *Westminster* on *Friday* next after the Octave of *St. Hillary* under the seals, &c. and the seals, &c. together with the writ of the said Lord the King to them therefore directed: The same day is given to the said *William* there, &c. On which day before the Lord the King at *Westminster* comes *William Dunstar*, by his attorney aforesaid, and the sheriffs of

Writ awarded to the sheriff of London to inquire what damages the plaintiff sustained by breach of the first promise.

London, to wit, *Jonathan Raymond*, Esq; and *Simon Lewis*, Esq; by virtue of the writ of the said Lord the King to them therefore directed, return a certain inquisition taken before them at the *Guildhall* of the city of *London*, situate in the parish of *St. Lawrence* in the *Old Jewry* in the ward of *Cheape* of the same city, on the 22d day of *January* in the 31st year of the reign of the Lord *Charles* the Second, now King of *England*, &c. by the oath of 12 good, &c. whereby it is found that the said *William Dunstar* hath sustained damages by reason of the premisses aforesaid beyond his costs and charges by him about his suit in this respect laid out to 89 l. and for those costs and charges to 26 s. 8 d. Therefore it is considered, that the

Judgment;

said *William Dunstar* do recover against the said *Edward Peirce* his damages aforesaid by the inquisition aforesaid in form aforesaid found, and also 9 l. 13 s. 4 d. for his costs and charges of increase, adjudged to the same *William* by the court of the said Lord the now King here by his assent, which damages in the whole amount to 100 l. And the said *Edward* in mercy, &c.

Note; a writ of error was afterwards brought in the *Exchequer chamber*, and the judgment affirmed there.

Q

Assumpsit

Assumpsit against an administratrix for goods sold by the plaintiff to her intestate, and on an account stated with her intestate.

Plea. Intestate indebted by bond to several persons.

And also a judgment against her on a simple contract by the intestate.

Which is a just debt.

WHEN, &c. and says, that the said *Michael* ought not to have his action afore-said thereof against her the said *Margaret*, because she says, that the said *John* in his life-time, to wit, 23d day of *July* in the fifth year of the now King, at *L.* afore-said in the parish of *St. D.* in the ward of *Farringdon Without*, by his certain writing obligatory sealed with the seal of the said *John Cole*, acknowledged himself to be bound to one *Brian Bromeley*, Gent. in 100*l.* of lawful money of *England*, to be paid to the same *Brian*, when he should be thereto required: And the same *Margaret* farther says, that the said *John Cole* in his life-time afterwards, to wit, the 13th day of *December* in the 26th year of the reign of the said Lord the now King, at *London* afore-said in the parish and ward afore-said, by his other certain writing obligatory sealed with the seal of the said *John*, acknowledged himself to be bound to one *George Chapman* in 60*l.* of lawful money of *England*, to be paid to the said *George* when he should be thereto required: And afterwards, to wit, the 21st day of *May* in the 27th year of the reign of the said Lord the now King, the said *John Cole* at *London* afore-said in the parish and ward afore-said died, (the several debts afore-said, by the writings obligatory afore-said so as afore-said due, or any part thereof, being then not paid or satisfied,) and that the several writings obligatory were entered into for true and just debts to the same *Brian* and *George* severally and respectively truly and really due: And the said *Margaret* farther says, that one *Timothy Trevers*, on *Friday* next after the morrow of the Holy Trinity last past, came before the Lord the King at *Westminster* by *Carew Holford* his attorney, and produced in the court of the Lord the King then there his certain bill against the said *Margaret*, administratrix of all and singular the goods and chattels, rights and credits, which belonged to the said *John Cole* her late husband deceased, being in custody of the marshal of the *Marshalsea* of the Lord the King before the King himself, in a plea of debt, and there were pledges to prosecute, to wit, *John Doe* and *Richard Roe*; by which said bill the said *Timothy* complained of the said *Margaret* in a plea that she should render to the same *Timothy* 110*l.* of lawful money of *England*, which she owed him and unjustly detained, for this, to wit, that whereas the said *Timothy* and *John* in the life-time of the said *John*, to wit, on the first day of *April* in the 7th year of the reign of the said Lord the now King, at *London*, to wit, in the parish of *St. Mary le Bow* in the ward of *Cheape*, did account together between themselves concerning divers sums of money to the same *Timothy* from the said *John* then due and unpaid, and upon that account the same *John* was found in arrear to the said *Timothy* in the said 110*l.* to be paid to the said *Timothy* when he should be thereto required, whereby an action accrued to the said *Timothy* to demand and have of the said *John* in his life-time the said 110*l.* Nevertheless the said *John* in his life-time, or the same *Margaret* after the death of the said *John*, the said 110*l.* had not, nor had either of them yet paid to the said *Timothy*, but the said *John* in his life-time, and the said *Margaret* after his death, had altogether denied to pay him them, and that the said *Margaret* did then deny to pay, and unjustly detained them, to the damage of the said *Timothy* 20*l.* as he said: And therefore he produced the suit, &c. And the said *Margaret*, by *Walter Sloper* her attorney, then came and defended the force and injury, when, &c. And then said, that she could not deny the action of the said *Timothy*, nor but that she did detain from the said *Timothy* the said 110*l.* in the manner and form as the said *Timothy* above against her complained: Therefore it was then and there considered, that the said *Timothy* should recover against the said *Margaret* his debt afore-said, as also 48*s.* / 4*d.* for his damages which he had sustained, as well by reason of the detention of that debt, as for his costs and charges by him about his suit in that behalf laid out, to the same *Timothy* by the same court of the said Lord the now King before the King himself by his assent adjudged of the goods and chattels which belonged to the said *John Cole* at the time of his death in the hands of the said *Margaret* to be administered, if she had so much in her hands; and if she had not so much in her hands, then the damages afore-said of the proper goods and chattels of the said *Margaret* to be levied; and that she the said *Margaret* should be in mercy, &c. as by the record and process thereof remaining in the said court of the said Lord the King here more fully appears: And the same *Margaret* farther says, that the said debt, by the said *Timothy* against the said *Margaret* in form afore-said recovered, at the time of the death of the said *John Cole* was a true and just

just debt, and at the time of the death of the said *John Cole* and also at the time of the giving that said judgment against the same *Margaret* was unpaid, and that the judgment aforesaid yet remains in its full force and effect not reversed, annulled or satisfied: And the same *Margaret* farther says, that she has fully administered all the goods and chattels which belonged to the said *John* at the time of his death, and that she hath not, nor on the day of the exhibition of the aforesaid bill of the said *Michael*, or ever after, had any goods or chattels which belonged to the said *John Cole* at the time of his death in her hands to be administered, except goods and chattels to the value of 40 s. which are not sufficient to satisfy the said *Brian* and *George* the several debts aforesaid upon the several writings obligatory aforesaid so as aforesaid due, nor to satisfy the said *Timothy* his debt aforesaid in form aforesaid recovered; and which to the said writings obligatory and to the same judgment are liable and bound: And this she is ready to verify: Wherefore she prays judgment if the said *Michael* ought to have or maintain his said action thereof against her, &c.

And that she hath not affects.
Note; By the court and *Saxdors* also, that satisfaction or payment pleaded is not traversable, but the fraud is the only thing to be traversed.

And the said *Michael* says that he, by any thing by the said *Margaret* above in pleading alleged, ought not to be precluded from having his said action thereof against her; because as to the debt aforesaid by the writing obligatory aforesaid to the said *Brian B.* by the said *John Cole* in his life-time due, the said *Michael* says, that after the making of the writing obligatory aforesaid, and before the exhibition of the said bill of the said *Michael*, to wit, on the 5th day of *June* in the 27th year of the reign of the said Lord the now King, at *London* aforesaid in the parish and ward aforesaid, great part of that debt, to wit, 40 l. were paid to the said *Brian B.* and that the said *Brian B.* on the said 5th day of *June* in the 27th year above said, was ready to accept of the said *Margaret* a certain sum of money not exceeding 20 l. to wit, 10 l. in full satisfaction and discharge of the debt aforesaid by the said writing obligatory due to the said *Brian B.* and on the payment thereof to deliver up the said writing obligatory to the said *Margaret* to be cancelled: And as to the debt aforesaid by the writing obligatory aforesaid due to the said *George Chapman* from the said *John Cole* in his life-time, the same *Michael* says, that after the making of the writing obligatory aforesaid, and before the exhibition of the said bill of the said *Michael*, to wit, on the said 5th day of *June* in the 27th year above said, at *London* aforesaid in the parish and ward aforesaid, great part of that debt, to wit, 20 l. were paid to the said *George Chapman*, and that the said *George Chapman* on the said 5th day of *June* in the 27th year above said, and always after hitherto, at *London* aforesaid in the parish and ward aforesaid, was ready to accept of the same *Margaret* a certain sum of money not exceeding 20 l. to wit, 10 l. in full satisfaction and discharge of that debt by the said writing obligatory due to the said *George Chapman*, and upon the payment thereof to deliver up the said writing obligatory to the same *Margaret* to be cancelled: And as to the judgment aforesaid by the said *Timothy Trevers* against the said *Margaret* in the said court of the said Lord the now King before the King himself had, the same *Michael* says, that before the exhibition of the said bill of the said *Michael*, to wit, on the said 5th day of *June* in the 27th year above said, at *London* aforesaid in the parish and ward aforesaid, a great part of the said money by the said *Timothy Trevers* as aforesaid recovered, to wit, 100 l. thereof, were paid and satisfied to the said *Timothy*, and that the said *Timothy* on the said 5th day of *June* in the 27th year above said, and always after hitherto, at *London* aforesaid in the parish and ward aforesaid, was ready to accept of the same *Margaret* a certain sum of money not exceeding 20 l. to wit, 10 l. in full satisfaction and discharge of that judgment, and upon the payment thereof to acknowledge satisfaction upon the record of that judgment: And the same *Michael* farther says, that the said *Margaret*, on the day of the exhibition of the said bill of the said *Michael*, to wit, on the 10th day of *June* in the 27th year above said, at *London* aforesaid in the parish and ward aforesaid, had divers goods and chattels which belonged to the said *John Cole* at the time of his death in her hands to be administered, besides and beyond goods and chattels sufficient to discharge the several writings obligatory aforesaid, and the judgment aforesaid so as aforesaid had and obtained, wherewith she might have satisfied the said *Michael* for his damages aforesaid, to wit, at *London* aforesaid in the parish and ward aforesaid: And this he is ready to verify: Wherefore he prays judgment and his damages by reason of the premises to be adjudged to him, &c.

Repl'. As to one bond that it is most part paid.

And that he would accept 10 l. in satisfaction.

The same replication to the other.

The same replication to the judgment.

And that she hath assets sufficient.

And the said *Margaret* protesting, that a great or any part of the debt by the said writing obligatory due to the said *Brian B.* was not paid; and likewise protesting, that a great or any part of the debt by the said other writing obligatory due to the same *George Chapman* was not paid to the said *George Chapman*; protesting also, that the said *George Chapman* was not ready to accept of the same *Margaret* any sum of money not exceeding the sum of 20 l. in full satisfaction of that debt by the said writing obligatory due to the same *George Chapman*, and upon the payment thereof to deliver up that writing to the same *Margaret* to be cancelled; and protesting also, that a great or any part of the said money by the said *Timothy Trevers* as aforesaid

Rejoinder.
Protesting that no part was paid.
Plow. 276.
Co. Lit. 124.
125, 126.
Lutw. 662.

Says she has
not assets to
satisfy the
bonds and
judgments.

aforesaid recovered was not paid to the same *Timothy*, nor that the said *Timothy* was ready to accept of the said *Margaret* any sum of money in full satisfaction and discharge of that judgment, and on payment thereof to acknowledge satisfaction on the record of the said judgment in manner and form as the said *Michael* above in replying thereto hath alledged, for plea the said *Margaret* as before says, that she has not, nor on the day of the exhibition of the bill of the said *Michael* aforesaid, or ever after, had any goods or chattels that belonged to the said *John Cole* at the time of his death, except the goods and chattels in the plea aforesaid abovementioned, which are not sufficient to satisfy the said several writings obligatory and the judgment aforesaid: And of this she puts herself upon the country: And the said *Michael* thereof likewise, &c. Therefore let a jury thereon come before the Lord the King at *Westminster* on *Wednesday* next after 15 days of *St. Hillary*; and who neither, &c. to recognize, &c. because as well, &c. The same day is given to the parties aforesaid there, &c.

Toone, widow, and Theobald.

Escape against
the sheriff for
refusing to ar-
rest the party
on a mesne
process.
J. W. in-
debted to the
plaintiff.

Who sued out
a writ of *Alias
capias*,

and delivered
it to the she-
riff.

The sheriff re-
fused to arrest
the party tho'
"pre-

Suffolk, to wit. **D**orothy *Toone*, widow, complains of *Francis Theobald*, Esq; late sheriff of the county aforesaid, being in the custody of the marshal of the *Marshallsea* of the Lord the King before the King himself, for this, to wit, that whereas one *John Wilmot* on the 10th day of *May* in the 15th year of the reign of the Lord the now King, at *Palgrave* in the county aforesaid, was indebted to the said *Dorothy* in 200 *l.* of lawful money of *England*, for divers wares and merchandizes by her the said *Dorothy* to the said *John*, at the special instance and request of the said *John*, before that time there sold and delivered; and the said *John* being so therein indebted, then and there in consideration thereof, assumed upon himself, and to the said *Dorothy* then and there faithfully promised, that he the same *John* the same 200 *l.* to the said *Dorothy*, when he should be thereto after required, would well and faithfully pay and content: And in fact the said *Dorothy* says, that the said *John*, altho' he was often required to do it, hath not yet paid the said *Dorothy* the said 200 *l.* but hath altogether refused to pay her them: And whereas also the said *Dorothy*, for the recovery of the said 200 *l.* to the said *Dorothy* by the same *John* in form aforesaid being due and unpaid, afterwards, to wit, in *Hilary* term in the 16th year of the reign of the Lord the now King, at *Westminster* in the county of *Middlesex*, prosecuted a certain writ of the said Lord the King of *Alias capias* to the sheriff of the county of *Suffolk* aforesaid directed out of the court of the said Lord the King before the King himself, the same court then being at *Westminster* in the county of *Middlesex* aforesaid; by which said writ of *Alias capias* the said Lord the King commanded the sheriff of the county of *Suffolk* aforesaid (as the same then sheriff of the county of *Suffolk* aforesaid had been before commanded) that he should take the said *John Wilmot*, if he should be found in his bailiwick, and should safely keep him so that he might have his body before the said Lord the King at *Westminster* on *Wednesday* next after fifteen days of *Easter* then next following, to answer to the said *Dorothy* in a plea of trespass, and also to the bill of her the said *Dorothy* against him the said *John Wilmot* for 200 *l.* on promise, according to the custom of the court of the said Lord the King, before the King himself to be exhibited, and that the said sheriff should have there then that writ: Which said writ of the said Lord the King of *Alias capias* the same *Dorothy* afterwards and before the return of the same, to wit, on the 9th day of *April* in the 16th year of the reign of the Lord the now King aforesaid, at *Palgrave* aforesaid in the county of *Suffolk* aforesaid, delivered to the said *Francis T.* (then being sheriff of the county of *Suffolk* aforesaid) in form of law to be executed: Which said writ of *Alias capias* aforesaid, in form aforesaid prosecuted, the same *Dorothy* prosecuted with this intention, that the said *John Wilmot* might by virtue of the same writ be taken and arrested, and that the said *Francis* the said sheriff of the county aforesaid might have the body of the said *John* before the Lord the King at *Westminster*; so that at the said day of the return of the same writ the said *John* might be committed to the custody of the marshal of the *Marshallsea* of the court of the Lord the King before the King himself, according to the custom of the court aforesaid; so that the said *John*, before he should go at large out of such custody, might be compelled to put in sufficient bail at the suit of the said *Dorothy*, on the bill of the said *Dorothy* against the said *John* for 200 *l.* upon the promise abovementioned, according to the custom of the court aforesaid in the same court to be exhibited: And whereas afterwards, and before the return of the writ of *Alias capias* aforesaid, to wit, the said 9th day of *April* in the 16th year aforesaid, at *Palgrave* aforesaid in the county of *Suffolk* aforesaid, the said *John* was in the presence of the said *Francis*, he the said *Francis* then being sheriff of the county of *Suffolk* aforesaid, and the said *Dorothy* then and there shewed to the said *Francis* the same *John Wilmot*, and required the said *Francis* then and there to take and arrest the said *John* according to the command of the said writ: Nevertheless the said *Francis* not regarding his office of sheriff in the true and just execution thereof, but contriving and fraudulently intending to hinder the said

said *Dorothy* of her proper remedy for the recovery of the said 200*l.* the day, year and place last aforesaid, did not take and arrest the said *John*, nor had his body before the said Lord the King at *Westminster* on the said day of the return of the said writ of *Alias capias*, nor at any time after or before, but on the said *Wednesday* next after fifteen days of *Easter* abovementioned, at *Westminster* in the county of *Middlesex*, neglected to have the body of the said *John* before the Lord the King there, according to the command of the said writ of *Alias capias*, although the said *Francis* might easily have had the body of the same *John* there at that day, according to the duty of his office of sheriff of the county aforesaid; whereby the said *John* was not committed to the marshal of the *Marshalsey* aforesaid, nor put in any bail at the suit of the said *Dorothy*, so that the said *Dorothy* could not exhibit her bill against the said *John* for the 200*l.* upon the said promise and assumption, according to the custom of the said court: And the said *John*, immediately after the said day of the return of the writ of *Alias capias* aforesaid, to places to the same *Dorothy* intirely unknown escaped, and ever after hitherto hath elained, absconded and absented himself, so that the said *Dorothy* is totally deprived and hindered of her remedy for the recovery of the said 200*l.* to the damage of the said *Dorothy* 200*l.* And therefore she produces the suit, &c.

And had not the body at the return of the writ.

J. W. escaped and absented himself.

Not guilty.

Note; In this case the plaintiff recovered all her debt, and it was paid her by the sheriff.

Bracebridge and Watson.

Warwick, to wit. **D**orothy Bracebridge, spinster, complains of William Watson, clerk, and Cecilia his wife, in the custody of the marshal, &c. for this, to wit, whereby she that whereas the said *Dorothy* is a good, true, chaste, honest, pious and liege subject of the Lord the now King, and as such good, true, pious, chaste and honest subject of the Lord the King from the time of her birth hitherto hath behaved herself and continued, and was accounted, said, known and reputed to be of a good name, reputation, condition, conversation, Life and behaviour among her relations, friends and neighbours, and other subjects of the Lord the now King, and from all manner of whoredom, adultery, fornication and incontinency, or the least suspicion of any such fault or hurtful crime during her whole life past lived exempt, innocent, free and wholly unsuspected, and lived and continued a virgin, all kind of modesty, sincerity, probity and honesty always desiring, embracing and exercising, by means whereof the said *Dorothy* not only deservedly got and obtained the favour and good will of her parents, friends and neighbours, and other faithful and creditable subjects of the said Lord the now King, but also divers creditable persons and of great estates and reputation greatly desired the company and society of the said *Dorothy* on account of her pure, immaculate and incorrupt conversation: And whereas *Rebecca Bracebridge*, widow, mother of the said *Dorothy*, on account of the pure and immaculate life of the said *Dorothy*, did intend spontaneously of her own proper money to give and then was about to give to the said *Dorothy* the sum of 150*l.* of lawful money of *England* for the preferment of her the said *Dorothy*: And whereas *John Bracebridge* the brother of the said *Dorothy*, a man of great estate, had so great a love, favour and kindness for the said *Dorothy* on account of her pure, immaculate, and incorrupt conversation, that he the said *John* spontaneously intended to give and then was about to give to the said *Dorothy* the sum of 100*l.* of lawful money of *England* for the present support, preferment and augmentation of the portion of her the said *Dorothy*: Nevertheless the said *Cecilia* well knowing the premisses, but maliciously envying the happy state and condition of the said *Dorothy*, and contriving and intending to scandalize the said *Dorothy* not only in her good name, fame, credit and reputation aforesaid, but also wholly to hinder and deprive her of the affection and love of the said *Rebecca* her mother and the said *John* her brother, and to cause her the said *Dorothy* to be brought into the final discredit and hatred of the said *Rebecca* and *John*, and other her relations, and all her friends and neighbours, and to be bereaved and deprived of all preferment from her parents, relations and friends, and of the great gifts and presents to the said *Dorothy* intended, on the 1st day of *June* in the 28th year of the reign of the Lord *Charles* the Second, now King of *England*, &c. at *Colehill* in the county aforesaid, falsely and maliciously said, asserted, related, proclaimed, and with a loud voice pronounced these false, feigned, scandalous and opprobrious words following of the said *Dorothy*, in the presence and hearing of several faithful and creditable subjects of the said Lord the King, to wit, Mrs. *Bracebridge* (meaning the said *Dorothy Bracebridge* the now plaintiff) has had a bastard-child by Mr. *Sacheverell* (meaning one *George Sacheverell* of *Sutton Colefield* in the county aforesaid, Esq;) and the child is kept at *Yardley* (meaning a certain village, called *Yardley* in the county of *Worcester*; by reason of the speaking and publishing of which said false, feigned, scandalous and opprobrious words, the same *Dorothy* not only had the great infamy and scandal of the hurtful and wicked crime of whoredom, fornication, and

Cause for words whereby she lost her marriage.

The words;

R

incon-

incontinency, among very many venerable and creditable persons with whom the same *Dorothy* was before in great honour, credit and esteem; and all other persons, who before the speaking and publishing of the said scandalous words used greatly to desire the company and society of the said *Dorothy*, withdrew themselves from the company and society of the said *Dorothy*, as from the company and society of an unchaste woman, and daily more and more withdraw themselves; but also by reason of the speaking and publishing of the said false, feigned, scandalous and opprobrious words aforesaid, the said *Rebecca Bracebridge*, the mother of the said *Dorothy*, and the said *John Bracebridge*, the brother of the said *Dorothy*, have absolutely refused, and yet do refuse, to give the same *Dorothy* the said 150*l.* and the said 100*l.* And also for the same reason the said *Dorothy* hath intirely lost the love, esteem and favour of her said mother and brother, and also of all her relations and friends, and her preferment therein aforesaid; whereby the same *Dorothy* says that she is prejudiced, and has damage to the value of 300*l.* And therefore she produces the suit, &c.

Sayle and Frank.

Case for destroying the common with rabbits.

Prescription for common of pasture.

York, to wit. **J.** *Obn Sayle* complains of *Edward Frank*, otherwise *Ashbon*, Esq; in the custody of the marshal, &c. for this, to wit, that whereas the said *John* continually for the space of four years now last past was and yet is seized of a messuage and 50 acres of land, with the appurtenances, lying in *Campfall* in the said county of *York*, in his demesne as of fee; and the same *John*, and all they whose estate he has in those tenements, from time out of mind have had, and were used to have, common of pasture in a certain great pasture in *Campfall* in the county aforesaid, called *Campfall Barnsdale*, for all their commonable cattle in and upon the said messuage and 50 acres of land, levant and couchant every year at all times of the year as to the said messuage and 50 acres of land, with the appurtenances, belonging and appertaining: Nevertheless the said *Edward* not ignorant of the premises, but contriving and unjustly intending to hinder the said *John* from having his common of pasture aforesaid in the said pasture called *Campfall Barnsdale*, and of the profit of the same totally to deprive him, on the first day of *December* in the 27th year of the reign of the Lord the now King, and continually after hitherto, so many rabbits, to wit, 10,000 rabbits in and upon the said great pasture called *Campfall Barnsdale* maintained and kept, that by reason thereof the greatest part of the herbage there for all the said time was consumed and eaten up, whereby the said *John* could not have and take during all the time aforesaid his common of pasture aforesaid for his cattle in and upon the said messuage and 50 acres of land, with the appurtenances, levant and couchant in the said great pasture called *Campfall Barnsdale*, in so ample and beneficial a manner as he before had and was used to have, and of right ought to have; whereby the same *John* says that he is prejudiced, and has damage to the value of 50*l.* And therefore he produces the suit, &c.

Ballard and Tayler.

Declaration in the Marshal's court for indicting the plaintiff for riot, which indictment was found ignoramus.

Palace Court, to wit. **T** *Thomas Ballard* by *Henry Wright* his attorney complains against *William Tayler* in a plea of trespass on the case, for this, to wit, that whereas the said plaintiff now and always was and is a peaceable and quiet man, and not a rioter, router or breaker of the peace of the said Lord and Lady the King and Queen: Nevertheless the defendant not being ignorant of the premises, but contriving and maliciously intending to scandalize and disquiet the said plaintiff, him the said plaintiff, for that the said plaintiff with other malefactors and disturbers of the peace of the said King and Queen to the number of ten persons, at the parish of *St. Mary Matfellow*, otherwise *Whitechappel*, in the county of *Middlesex*, and within the jurisdiction of this court, on the 16th day of *September* in the second year of the reign of the Lord and Lady *William* and *Mary*, now King and Queen of *England*, &c. as rioters, routers and disturbers of the peace of the Lord and Lady the now King and Queen, to disturb the peace of the said Lord and Lady the Queen, with force and arms, &c. at the parish aforesaid in the county aforesaid, unlawfully, riotously and routously assembled themselves and met together, and being so then and there assembled and met together, him (the defendant) in the peace of God and of the said Lord and Lady the King and Queen then and there unlawfully, riotously and routously beat, wounded and ill treated, so that his life was despaired of, and other enormities to the said defendant then and there unlawfully, riotously and routously offered, to the great damage of him the defendant, and against the peace of the said Lord and Lady the now King and Queen, their crown and dignity, &c. without any just or probable cause, before the justices of the said now King and Queen assigned to preserve the peace in and for the county of *Middlesex* aforesaid, at a session of the peace held at *Hicks's Hall* in the county of *Middlesex* for the county of *Middlesex* aforesaid, on the first day of *October* in the second year aforesaid, caused and procured to be indicted,

and the same plaintiff on that account prosecuted until he the said plaintiff was thereof duly acquitted, to the damage of the said plaintiff 99*s*. And therefore he produces the suit, &c.

Stephens and another against Wickham and others.

Gloucester, to wit. **T**homas Stephens, Esq; and Robert Parker, Esq; complain of John Wickham, Samuel Burcomb and John Burcomb, in the custody of the marshal, &c. for this, to wit, that whereas the said Thomas and Robert on the 29th day of October in the 31st year of the reign of the Lord Charles the Second, now King of England, &c. and continually afterwards until the day of the exhibition of this bill, to wit, the 20th day of April in the 33d year of the reign of the said Lord the now King were and yet are seised as of fee and right of and in a certain market held and to be held on Thursday in every week in Chipping Sodbury, otherwise Sodbury Burrough in the county aforesaid, for divers merchandizes, things, goods and chattels there to be bought and sold, and also among other things of the liberty and franchise of having and keeping publick beams, ballances and weights, and of the same there publickly using; by reason of which said market and franchise the said Thomas and Robert for all the time aforesaid were lawfully intitled to have and receive sundry tolls, stallages, piccages, weighages, pitching pence and other profits of several persons to the said market coming and there buying and selling, to the market aforesaid belonging: Nevertheless the said John Wickham, Samuel Burcomb and John Burcomb, not ignorant of the premisses, but maliciously contriving and intending to aggrieve them the said Thomas Stephens and Robert Parker in the premisses, and to exclude and deprive them of the franchise and profits of their market aforesaid, and particularly of the profits of taking and receiving the said pitching pence, and the other profits of the publick ballances and weights aforesaid in the market aforesaid, they the said John Wickham, Samuel Burcomb and John Burcomb, on the said 29th day of October in the 31st year of the reign of the said Lord the now King aforesaid, and at divers other days and times in the time of the said market between the 29th day of October in the 31st year of the reign of the said Lord the now King aforesaid, and the time of the exhibition of this bill at Chipping Sodbury, otherwise Sodbury Burrough aforesaid, of their own wrong, without any lawful or legal authority, maliciously and unjustly came into the said market, and there unjustly collected and received, or caused to be collected and received, and to their own proper use converted, the said pitching pence, and the profits of the publick ballances and weights aforesaid, whereby they the said Thomas Stephens and Robert Parker lost the said pitching pence, and the profits of the said publick ballances and weights for all the time aforesaid, to the damage of them the said Thomas Stephens and Robert Parker 200*l*. And therefore they produce the suit, &c. Note; this cause was tried at the bar before Saunders chief justice, and the plaintiffs recovered.

Cause for hindering the plaintiff in the use of his market.

Seised in fee of the market, and kept publick weights, and had toll, &c.

The disturbance by the defendants.

The company of Stationers against Marlowe.

Easter 32 Car. 2. Roll 213.

Midd^e, to wit. **J**ohn Marlowe late of London, printer, was attached to answer the master and keepers, or wardens and commonalty of the mystery or art of stationers of the city of London in a plea of trespass on the case, &c. And whereon the same master and keepers, or wardens and commonalty of the mystery or art of stationers of the city of London by Jervase Gill their attorney complain, why whereas the Lord James late King of England, grandfather of the Lord the now King, by his letters patent sealed with the great seal of England, bearing date at Westminster 8th day of March in the thirteenth year of his reign, of his special grace, certain knowledge and meer motion for himself, his heirs and successors, gave and granted to the said master and keepers, or wardens and commonalty of the mystery or art of stationers of the city of London, and their successors for ever, full power, privilege and authority to print all almanacks in the English tongue within this kingdom of England: And the same Lord the King by his said letters patent strictly forbid, prohibited and commanded all and singular other printers, booksellers, and all other officers, ministers and subjects whomsoever of the said Lord the King, his heirs and successors, that they, or any of them, at any time or times then after should not print,

Cause for printing almanacks without the consent of the patentee.

The breach
assigned.

print, or cause to be printed or brought from parts beyond the sea, nor should buy, utter or sell, or cause to be bought, uttered or sold, any almanacks in the *English* tongue, other than such as should be printed by the said master and keepers, or wardens and commonalty of the mystery or art of stationers of the city of *London*, and their successors, as by the letters patent aforesaid, an exemplification whereof under the great seal of the said Lord the now King, bearing date at *Westminster* the sixth day of *December* in the 27th year of his reign, the same master and keepers, or wardens and commonalty of the mystery or art of stationers of the city of *London* produce here in court, is more fully manifest and doth appear; by virtue of which said letters patent of the said Lord *James* late King of *England*, &c. they the said master and keepers, or wardens and commonalty of the mystery or art of stationers of the city of *London* have had and ought to have the power, authority and privilege solely to print all almanacks in the *English* tongue: Nevertheless the said *John* not ignorant of the premisses, but contriving and intending to deceive and defraud them the said master and keepers, or wardens and commonalty of the mystery or art of stationers of the city of *London*, of the benefit of the privilege aforesaid, on the fourth day of *November* in the 31st year of the reign of the said Lord the now King at *Westminster* in the county of *Middlesex* aforesaid, without the licence or consent of the said master and keepers, or wardens and commonalty of the mystery or art of stationers of the city of *London* in that behalf had, sold 5000 almanacks printed by divers persons unknown, *without the licence and consent of the said master and keepers, or wardens and commonalty of the mystery or art of stationers of the city of London in the English tongue*, contrary to the form and effect of the letters patent aforesaid, in contempt of the said Lord the now King, and contrary to the privilege to the same master and keepers, or wardens and commonalty of the mystery or art of stationers of the city of *London* granted; whereby the same master and keepers, or wardens and commonalty of the mystery or art of stationers of the city of *London* say, that they are prejudiced, and have damage to the value of 100*l*. And therefore they produce the suit, &c.

Cooper, Bart. and St. John, Esq;

Case for
breaking
down the
plaintiff's in-
closure,
whereby the
cattle of di-
vers persons
escaped into
the plaintiff's
close.

Wilts, to wit. **A** *Nibony Ashley Cooper, Bart.* complains of *Nicholas St. John, Esq;* in the custody of the marshal, &c. for this, to wit, that whereas the said *A.* on the third day of *August* in the 18th year of the reign of the Lord *Charles* the Second now King of *England*, &c. was seised and yet is seised of and in a close of pasture containing 124 acres, and of another close of pasture containing 80 acres, lying within the close aforesaid, known by the names of the *Purlewes*, otherwise *Russels Wood*, lying in *Liddiard Milicent* in the county aforesaid, in his demesne as of fee; which said several closes on the said third day of *August* in the 18th year aforesaid, and for divers years now last past, for the preservation of the grass in the same closes respectively growing, by the same *Anthony Ashley Cooper* were well and sufficiently fenced and hedged round: And whereas the said close of pasture containing 124 acres now is and from time immemorial was next adjoining to a certain common field called *Purton Common* on the north east and north west, and to a certain other common field known by the name of *Webbs Purlewe* on the south west, and which said fields lie together not separated or divided by any hedges or fences: And whereas the grass in the two closes aforesaid yearly for the space of six years now last past respectively growing was well worth 60*l*. of lawful money of *England*: The said *N.* not ignorant of the premisses, but contriving and maliciously intending totally to deprive the said *A.* of the whole profit and advantage of the closes aforesaid, on the said third day of *August* in the 18th year aforesaid, at *Liddiard Milicent* aforesaid in the county aforesaid, the hedge, to wit, 10 perch of hedge of the said close containing, as aforesaid, 80 acres of the said *A.* broke and threw down, and the hedge so broke and thrown down from the said third day of *August* in the 18th year aforesaid until the 23d day of *October* in the 23d year continued and kept, whereby sundry cattle, to wit, horses, oxen, cows, sheep, heifers and calves of several persons going and depasturing in the said common fields during that time, on the said third day of *August* in the 18th year aforesaid, and on divers other days and times between the same third day of *August* and the said 23d day of *October* in the 23d year aforesaid, from that time unto and upon the said close of pasture containing as aforesaid 124 acres of the said *A.* thro' the breach in the hedges of that close, by the breaking and throwing down of those hedges as aforesaid made, enter'd, and from that close unto and upon the said other close of pasture containing as aforesaid 80 acres of the said *A.* thro' the like breach in the hedges of that close by the said breaking and throwing down of those hedges so as aforesaid made went and

and escaped, and the grafs of the said *Anthony* to the value of 300*l.* in those closes during the time aforesaid respectively as aforesaid growing, at divers days and times during that time eat up, trod down and consumed, whereby the same *A.* the whole profit and advantage of those closes for the whole time aforesaid lost, to the damage of the said *A.* 500*l.* And therefore he produces the suit, &c.

Bluck against Wright, one, &c.

London, to wit. **W**illiam Bluck, Gent. executor of the last will and testament of *William Bluck*, Esq; deceased, complains of *Henry Wright*, Gent. one of the clerks of *Rowland Holt*, Esq; and *Robert Coleman*, Gent. chief clerk of the Lady the Queen, assigned to inrol pleas in the court of the said Lady the Queen before the Queen herself, according to the liberty and privilege for such chief clerk and his clerks for time out of mind used and approved in the same court, present here in court in his proper person, for this, to wit, that whereas the said *William Bluck* now deceased, in his life-time, to wit, at *London* aforesaid in the parish of *St. Mary le Bow* in the ward of *Cheape*, was possessed of seven tallies and seven orders in writing, made at the Exchequer of the said Lady the now Queen, to the same tallies belonging and appertaining, as of his own proper tallies and orders, two of those orders being respectively number'd with the numbers 155 and 156, and made at the Exchequer aforesaid, in pursuance of a certain act of Parliament, intituled, *An act for granting an aid to her Majesty by continuing the duties on malt, cyder and perry for one year*, and both of them bearing date 26th day of *January* in the year of the Lord 1703; and the five orders the residue thereof being number'd with the numbers following, to wit, 1006, 1007, 1008, 1009, 1010, and made at the Exchequer aforesaid, in pursuance of a certain act of Parliament, intituled, *An act for granting to her Majesty a land-tax to be raised in the year 1704*, each of the said five orders last mentioned bearing date 23d day of *December* in the year of the Lord 1703 aforesaid, and by reason of those tallies and the said orders in writing, there was due and payable to the said testator the sum of 3100*l.* principal money; which said tallies and orders, at *London* aforesaid in the parish and ward aforesaid, came to the hands of the said *Henry*: And whereas after the death of the said testator, to wit, on the first day of *October* in the fifth year of the reign of the Lady *Anne* now Queen of *England*, &c. at *London* aforesaid in the parish and ward aforesaid, a certain discourse was had and moved between the said *William* the executor and the said *Henry* of and concerning those tallies and orders, and the possession of the said *Henry* thereof; and upon that discourse the same *Henry* then and there affirmed, that the tallies and orders aforesaid were delivered, and each of them was delivered by the said *William* the testator to the same *Henry*, by way of gift of the principal money due on those tallies and orders, to the proper use and benefit of the said *Henry*; the interest nevertheless for that principal money to be paid to the same *William* the testator during his life, which said affirmation the said *William* the executor then and there denied; and thereupon the said *William* the executor, at the instance of the said *Henry*, paid to him 20*s.* and in consideration thereof the same *Henry* assumed upon himself, and then and there faithfully promised the said *William* the executor to pay him 40*s.* if the tallies and orders aforesaid were not delivered, and every of them was not delivered, by the said *William* the testator to the same *Henry* by way of gift of the principal money due on those tallies and orders, to the proper use and benefit of the said *Henry*, as aforesaid: And the same *William* the executor in fact says, that the tallies and orders aforesaid were not delivered, nor was any of them delivered, by the said *William* the testator to the same *Henry* by way of gift of the principal money due on the tallies and orders aforesaid, to the proper use and benefit of the said *Henry*, as the said *Henry* had above alledged: Nevertheless the said *Henry* his promise and assumption aforesaid not regarding, but contriving and fraudulently intending the same *William* the executor in this behalf craftily and subtilly to deceive and defraud, the said 40*s.* or any penny thereof, to the said *William* the executor (altho' to do it by the same *William* afterwards, to wit, the fifth day of *October* in the fifth year aforesaid, at *London* aforesaid in the parish and ward aforesaid, he was required) hath not paid, but hath hitherto altogether refused, and yet doth refuse to pay him the same, to the damage of the said *William* the executor 10*l.* And therefore he produces the suit, &c.

Issue directed out of Chancery to settle a difference between an executor and donee concerning tallies.

Plea.

And the said *Henry* in his proper person comes and defends the force and injury when, &c. and says, that the said *William* the executor ought not to have or maintain his said action against him, because he says, that well and true it is that he the same *Henry* was possessed of the tallies and orders aforesaid, and assumed upon himself in manner and form, as the same *William* the executor by his declaration aforesaid hath above supposed: But the said *Henry* farther says, that the tallies and orders aforesaid were delivered, and each of them was delivered, by the said *William* the testator to the same *Henry*, by way of gift of the said principal money due on the tallies and orders aforesaid, to the proper use and benefit of the said *Henry*; the interest nevertheless for that principal money to be paid to the said *William* the testator during his life, as the same *Henry* above affirmed, to wit, at *London* aforesaid in the parish and ward aforesaid: And of this he puts himself on the country: And the said *William* the executor thereof likewise, &c. Therefore let a jury thereon come before the Lady the Queen at *Westminster* on *Wednesday* next after three weeks of the Holy Trinity; and who neither, &c. to recognize, &c. because as well, &c. The same day is given to the parties aforesaid there, &c.

Issue.

Collins against Ford.

An issue out of Chancery concerning a partnership.

The discourse.

The point in question.

Plea.

London, to wit. **T** *Thomas Collins* complains of *John Ford* being in the custody of the marshal of the *Marshalsea* of the Lord the King before the King himself, for this, to wit, that whereas on the first day of *May* in the 34th year of the reign of the Lord *Charles* the Second, now King of *England*, &c. at *London* aforesaid, to wit, in the parish of *St. Mary le Bow* in the ward of *Cheape*, a certain discourse was had and moved between the said *Thomas* and the said *John* of and concerning a partnership or joint trade in the business of a bookseller between him the said *Thomas* and the said *John* before that time had and managed, and of and concerning certain exceptions taken in a certain suit or plaint between him the said *Thomas* and the said *John* in the court of Chancery then before levied and prosecuted, and of and concerning divers sums of money, in the whole amounting to 128 *l.* 10 *s.* of lawful money of *England*, in the third exception of those exceptions mentioned; upon which said discourse so as aforesaid had and moved, a question then and there arose between him the said *Thomas* and the said *John*, whether the said sum of 128 *l.* 10 *s.* or any part thereof, was taken by the said *John*, to the proper use of him the said *John*, out of the said partnership or not: And thereupon the said *John* afterwards, to wit, the same day and year, at *London* aforesaid in the parish and ward aforesaid, in consideration that the said *Thomas*, at the special instance and request of the said *John*, had then and there paid to the said *John* 5 *s.* of lawful money of *England*, assumed upon himself, and to the said *Thomas* then and there faithfully promised, that he the said *John* would pay to the said *Thomas* 40 *s.* of lawful money of *England*, if the said sum of 128 *l.* 10 *s.* or any part thereof, was taken and had by the said *John*, to the proper use of the said *John*, out of the said partnership: And the said *Thomas* in fact says, that the said sum of 128 *l.* 10 *s.* was had and taken by the said *John*, to the proper use of the said *John*, out of the said partnership: Nevertheless the said *John* his promise and assumption aforesaid in form aforesaid made not regarding, but contriving and fraudulently intending the same *Thomas* in this behalf craftily and subtilly to deceive and defraud, the said 40 *s.* to the said *Thomas* hath not paid, nor the said *Thomas* any way for the same hitherto contented, altho' to do it the said *John* afterwards, to wit, the second day of *May* in the 34th year above said, at *London* aforesaid in the parish and ward aforesaid, by the same *Thomas* was required, but the said *John* the said 40 *s.* to the said *Thomas* to pay, or the said *Thomas* for the same any way to content hath altogether refused, and yet doth refuse; whereby the said *Thomas* says that he is prejudiced, and hath damage to the value of 5 *l.* And therefore he produces the suit, &c.

And the said *John* by *John Lilly* his attorney comes and defends the force and injury, when, &c. and says, that well and true it is that he the said *John* assumed upon himself in manner and form as the said *Thomas* above thereof against him hath declared; but the same *John* farther says, that the said *Thomas* his action aforesaid thereof against him ought not to have or maintain, because he says, that the said sum of 128 *l.* 10 *s.* or any parcel thereof, was not taken and had by the same *John Ford*, to the proper use of the said *John*, out of the said partnership, as by the declaration aforesaid is above supposed: And of this he puts himself on the country: And the said *Thomas* thereof likewise, &c. Therefore let a jury thereon come before the Lord the King at *Westminster* on _____ day next after _____ and who neither, &c. to recognize, &c. because as well, &c. The say day is given to the parties aforesaid there, &c.

Ponder against Braddill.

London, to wit. **N**athaniel Ponder complains of Thomas Braddill in the custody of the marshal, &c. for this, to wit, that whereas the said Nathaniel, on the first day of May in the 30th year of the reign of the Lord Charles the Second, now King of England, &c. and continually afterwards hitherto, at London aforesaid, to wit, in the parish of St. Mary le Bow in the ward of Cheape, was and yet is the true proprietor of the copy of a certain book, intituled *The pilgrim's progress from this world to that which is to come, delivered under the similitude of a dream, wherein is discovered the manner of his setting out, his dangerous journey and safe arrival at the desired country*, by John Bunnyon: And that he the said Nathaniel after he became proprietor of the book aforesaid printed 2000 books of the same copy, and on the 20th day of January in the 30th year of the reign of the Lord the now King aforesaid, at London aforesaid in the parish and ward aforesaid, had in his hands 100 books and more of the impression, and the same 20th day of January in the 30th year aforesaid, at London aforesaid in the parish and ward aforesaid, was imprinting 4000 books of the same copy: Nevertheless the said Thomas not ignorant of the premisses, but contriving and fraudulently intending totally to deprive him the said Nathaniel of the whole benefit of his copy aforesaid, afterwards, to wit, the said 20th of January in the 30th year aforesaid, at London aforesaid in the parish and ward aforesaid, 4000 books of the said copy of the book of him the said Nathaniel, intituled *The pilgrim's progress from this world to that which is to come, delivered under the similitude of a dream, wherein is discovered the manner of his setting out, his dangerous journey and safe arrival at the desired country*, by John Bunnyon, without the licence and consent of the said Nathaniel did print, and then and there exposed to sale, whereby the same Nathaniel totally lost the whole profit and benefit of the copy of his book aforesaid, intituled *The pilgrim's progress from this world to that which is to come, delivered under the similitude of a dream, wherein is discovered the manner of his setting out, his dangerous journey and safe arrival at the desired country*, by John Bunnyon; whereby the said Nathaniel says that he is prejudiced, and hath damage to the value of 200*l.* And therefore he produces the suit, &c.

Declaration for printing the plaintiff's copy without his leave.

The plaintiff proprietor of the copy.

And that he had printed an impression.

The cause of action.

Day and Hellington.

Glouc', to wit. **R**ichard Day, clerk, rector of the rectory of Long Marston, otherwise Marston Sicca in the county aforesaid, complains of George Hellington, Gent. executor of the last will and testament of William Hellington, clerk, late rector of the rectory aforesaid, deceased, in the custody of the marshal, &c. for this, to wit, that whereas by the laws of the land of this kingdom of England, all and singular prebendaries, rectors and vicars of this kingdom of England are bound and ought to repair and sustain all and singular the houses and buildings of their prebends, rectories and vicarages, and to leave them well and sufficiently repaired and sustained to their successors, and that if such prebendaries, rectors and vicars, do not leave such houses and buildings to their successors so as aforesaid well and sufficiently repaired and sustained, but shall permit them to be unrepaired and dilapidated, then the executors or administrators of the goods and chattels of such prebendaries, rectors and vicars, having sufficient of such goods and chattels, are bound and ought to satisfy such a sum of money as is sufficient to be expended and paid for the necessary reparation and building of such houses and edifices: And whereas the said William Hellington in his life-time, to wit, the day of in the year of the Lord at in the county of Gloucester, was lawful rector of the rectory of Long Marston, otherwise Marston Sicca aforesaid, thereto lawfully instituted and inducted, and was seised in the right of the rectory aforesaid of and in one house, one barn, and one garden thereto belonging, situate, lying and being in Long Marston, otherwise Marston Sicca aforesaid in the county aforesaid, and afterwards, to wit, day of in the year at Long Marston, otherwise Marston Sicca aforesaid in the county aforesaid, died thereof seised, after whose death, to wit, the day of in the year he the said Richard Day at Long Marston, otherwise Marston Sicca aforesaid, in the county aforesaid, to the rectory aforesaid with the appurtenances was lawfully presented, instituted and inducted, and yet is lawful rector of the same: And in fact the said Richard says, that at the time of the death of him the said William, to wit, the said day of in the year the said house of the rectory of Long Marston, otherwise Marston Sicca aforesaid, in the county aforesaid, was very

Cause for dilapidations brought against an executor on the custom of England.

Degg's Parson's Counselor 92. Clergyman's Law 311. Pract. Reg. 461.

That the rector was legal rector,

The plaintiff presented, &c. thereto, and is now lawful rector.

The buildings very ruinous and in decay for want of repairs, and that great part of the barn thereto belonging, to wit, one half thereof in the life-time of the said *William*, to wit, the day of in the year at *Long Marston*, otherwise *Marston Sicca* aforesaid, in the county aforesaid, fell down and was not by him rebuilt, and the rest of the said barn was very ruinous and in decay for want of repair at the said time of the death of him the said *William*, and that the fence of the garden aforesaid then and there was very ruinous and in decay for want of repair: And the said *Richard* farther says, that the money expended in the repairs of the said house, the fence of the garden, and so much of the barn standing at the said time of the death of the said *William*, as also to rebuild so much of the barn as was fallen at the said time of the death of the said *William*, would amount to the sum of 200 *l.* and therefore the said *Richard* afterwards, to wit, the day of in the year at *Long Marston*, otherwise *Marston Sicca* aforesaid, in the county aforesaid, to the same *George* gave notice, and then and there demanded of him the said *George* for that purpose the sum of 200 *l.* Nevertheless the said *George* contriving and fraudulently intending the same *Richard* in this behalf craftily and subtilly to deceive and defraud; altho' he had sufficient of the goods and chattels of the said *William* in his hands to be administered, the said 200 *l.* or any parcel thereof, or any sum of money for and towards the repairs aforesaid, to the same *Richard* hath not yet paid, but to pay him the same hath hitherto altogether denied, and yet doth deny, to the damage of the said *Richard* 300 *l.* And therefore he produces the suit, &c.

The particulars.

Damages demanded.

Refusal.

Moore against Plumley.

Case for dilapidations by the rector against the executor of his predecessor. *Chester*, to wit. **H**enry Moore, clerk, doctor of laws, rector of the moiety of the parochial church of *Malpas* in the county of *Chester* aforesaid, complains of *John Plumley* executor of the last will and testament of *Thomas Sandys*, clerk, late rector of the said moiety of the parochial church aforesaid, being in the custody of the marshal of the *Marshalsea* of the Lady the Queen before the Queen herself, for this, to wit, that whereas according to the law and custom of *England* hitherto obtained, used and approved, all and singular prebendaries, rectors and vicars, within *England* aforesaid, for the time being are obliged and ought to repair and sustain all and singular the houses and edifices of their prebends, rectories and vicarages, and to leave them to their successors repaired and sustained: And if such prebendaries, rectors and vicars, should not leave such houses and edifices to their successors so as aforesaid repaired and sustained, but should leave them unrepaired and dilapidated, the executors of the said prebendaries, rectors and vicars, after their decease are obliged and ought of the goods and chattels of the same testators to satisfy to those successors, prebendaries, rectors and vicars respectively, such sums of money as will be sufficient to be expended and paid for the necessary reparation and rebuilding of such houses and edifices: And whereas the said *Thomas Sandys*, late rector of the said moiety of the church aforesaid, in right of that rectory was seised of and in a mansion-house, with the appurtenances, in *Malpas* aforesaid in the county of *Chester* aforesaid, and of and in the north side of the chancel of the church aforesaid; and the said *Thomas Sandys* being rector of the said moiety of the said church in form aforesaid, and so as aforesaid being seised, on the 12th day of *August* in the 12th year of the reign of our Lady *Anne*, by the grace of God Queen of *Great Britain*, &c. at *Malpas* aforesaid died: And the said *Henry Moore* afterwards, to wit, on the 15th day of *December* then next following, to the said moiety of the parochial church aforesaid, vacant by the death of the said *Thomas Sandys*, was presented and admitted, instituted and inducted into the same, and became and yet is the proper rector of the same: And the said *Henry* in fact says, that at the time of the death of the said *Thomas Sandys* the said mansion-house, with the appurtenances, and the said north side of the church aforesaid, were unrepaired and dilapidated, and that such sum of money, as at the time of the death of the said *Thomas Sandys* was sufficient to be expended for the necessary repairs of the premisses aforesaid, amounts, and at the same time of the death of the said *Thomas Sandys* amounted to the sum of 69 *l.* 7 *s.* of lawful money of *Great Britain*: Nevertheless the said *John Plumley* after the death of the said *Thomas*, although often required, hath not satisfied to the same *Henry* a sufficient sum of money for the necessary reparation of the premisses so as aforesaid unrepaired and dilapidated, but hath altogether refused and yet doth refuse in any manner to satisfy him the same therefore, to the damage of the said *Henry* 100 *l.* And therefore he produces the suit, &c.

Wallbanck and Bucknall and others.

Field; to wit. **R**alph Bucknall late of London, Esq; John Bucknall late of London, Esq; Case on the
and William Hall late of London, Gent. were attached to answer unto custom of
England for
the negligent
keeping of
fire.
John Lilly his attorney complains, why whereas, according to the law and
custom of the kingdom of the Lord the King of England hitherto used and approved,
every person of the same kingdom is bound to keep his fire safe and secure by day and
by night, so that no damage may any way happen to his neighbours, for want of good
care of his fire, the said Ralph (the other two should be named here, or their names struck out
above) on the 10th day of August in the 36th year of the reign of the Lord Charles the
Second, now King of England, &c. at St. Martin in the Fields in the county of Middlesex
aforesaid, so negligently and inconsiderately kept his fire, that for want of good care of
that fire a mansion-house of the said John Wallbanck in the parish and county aforesaid,
being in the possession of the said John Wallbanck there, and of which the said John
Wallbanck was then and there possessed for the residue of a term of eleven years, which The plaintiff
possessed of a
house for a
term of years.
said term began from the feast of St. Michael the Archangel in the 31st year of the
reign of the said Lord the now King, was by that fire burnt down, and sundry goods
and chattels of the said John Wallbanck, to wit, a study of books, one hundred and ten
pictures, ten tables, four Turkey-work carpets, forty-three chairs, four couches, eight brass
sconces, eight gilt sconces, eight brass locks with their keys, one bird cage, twenty alabaster
images, ten China basons, thirty-three brass pots, three brass kettles, sixty glass bottles, A list of
household
goods.
two hundred gallons of claret, three presses for books, twenty yards of silk sashes for win-
dows, four guns, four pistols, six feather-beds, six bedsteads, ten trunks, thirty curtains,
thirty blankets, ten coverlets, one hundred yards of lace, thirty pair of sheets, thirty table
cloths, sixty napkins, one hundred yards of mohair cloth, six looking-glasses, six pair of
tongs, six iron grates, six poker, a jack, two clocks, six boxes, six stools, ten chests, six
hogsheds of beer, ten hogsheds of ale, forty silver spoons, four pair of bellows, ten
spits, three fire-shovels, three iron pots, four basters, six pair of andirons, twenty candle-
sticks, twenty pillows, thirty pillowbers, thirty towels, six hats, twelve shirts, twelve caps,
twelve cravats, four pair of boots, four belts, four swords, four cloaks, ten coats, ten
pair of breeches, four periwigs, three gowns, six pair of gloves, twenty pair of stockings,
ten pair of shoes, six womens silk gowns, ten petticoats, ten stomachers, twelve shifts,
twelve coifs, five hundred yards of woollen cloth, five hundred yards of linsy woolsey,
and five hundred ounces of silver plate, to the value of 1500*l.* of the said John Wallbanck
in the same house then and there were burnt, to the great damage of the said John Wall-
banck; whereby the said John Wallbanck says that he is prejudiced, and has damage to the
value of 1500*l.* And therefore he produces the suit, &c.

Hodgson and Kay.

York, to wit. **H**orace Kay late of Barnibus on Dun in the county aforesaid, Gent. was at- Case for not
tached to answer to Thomas Hodgson, Knt. in a plea of trespass on the repairing the
fences, where-
by the plain-
tiff's cattle
escaped thro'
the land of
another and
were im-
pounded.
Salk. 768.
case, &c. And whereon the same Thomas by John Arthur his attorney complains, why
whereas the said Thomas on the first day of September in the 34th year of the reign of
the Lord Charles the Second, now King of England, &c. was seised and yet is seised of
and in a close called Willow Bridge, situate, lying and being in Barnibus on Dun in the
county aforesaid, in his demesne as of fee; which said close now is and from time imme-
morial was next and contiguous adjoining to the close of the said Horace, called
at B. on D. aforesaid in the county aforesaid, on the part thereof; which said
close of the said Horace on the part thereof, for all the time aforesaid was
and yet is next and contiguous adjoining to a certain common field called
T common,

Prescription to common, situate in B. on D. aforesaid in the county aforesaid: And whereas the said repair the fences. *Horace*, and all they whose estate the said *Horace* now has of and in the said close called

The cause of action.

were used and accustomed to repair and amend the hedges and fences between the said close of the said *Thomas* called *W.* and the said close of the said *H.* called with all necessary reparations, as often as occasion required: Nethertheless the said *H.* contriving and maliciously intending totally to hinder and deprive the said *T.* of all the profit and advantage of his said close, afterwards, to wit, the said first day of *September* in the 34th year of the reign of the said Lord the now King, permitted the hedges and fences aforesaid separating and dividing the said close of the said *T.* called *Willowbridge*, from the said close of the said *H.* called to be broke down, prostrated and in great decay, for want of reparation, and the hedges and fences of his close aforesaid separating and dividing his close aforesaid from the common field aforesaid, called to be broke down and prostrated, and in great decay, whereby a cow of the said *T.* of the price of 5 *l.* on the said first day of *September* in the 34th year aboveaid, in the close of him the said *T.* called *W.* depasturing, thro' the fracture and breach of the hedges aforesaid, from the close of the said *T.* called *W.* into the close of the said *H.* called and from thence for want of reparations aforesaid of him the said *H.* into the said common field, called escaped, whereby the said *H.* afterwards, to wit, the said first day of *September* in the 34th year aboveaid, the said cow of the said *T.* so in the common field aforesaid, called being found, took and then at B. aforesaid impounded; which said cow so being in pound aforesaid, on the said first day of *September* in the 34th year aboveaid was there killed: Wherefore, &c.

Wickham against Sperring.

Trover for a mortgage and other goods by an administrator *de bonis non.* I think the better way is to say, that the testator was possessed and lost it. *Hodsdon and Hodson, Latch's Reports.*

London, to wit. **W**illiam Wickham and Frances his wife administratrix of all and singular the goods and chattels, rights and credits of *James Jeoffrey* the younger deceased, son and administrator of *James Jeoffrey* the elder likewise deceased, by the said *James Jeoffrey* the younger not administrated, complain of *William Sperring* in the custody of the marshal, &c. for this, to wit, that whereas the said *William* and *Frances* as administratrix of *James Jeoffrey* the elder, on the first day of *September* in the 35th year of the reign of the Lord *Charles* the Second, now King of *England*, &c. at the parish of *St. Clement Danes* in the county aforesaid, were possessed of a certain deed sealed with the seal of one *William Shalmer*, bearing date the day of in the year by which said deed the said *William Shalmer* demised to the said *James Jeoffrey* the elder in mortgage a certain windmill and sundry lands, meadow and pasture lying in *East Brent* and *Mark* in the county of *Somerset*, for the term of 1000 years, on condition for the payment of 200 *l.* with interest by the said *William Shalmer* to the same *James Jeoffrey* the elder, on the day of in the year as of the deed of the said *William* and *Frances*, and to the said *William* and *Frances* as administrator to the said *James Jeoffrey* the elder belonging and appertaining; and being so thereof possessed, and the said 200 *l.* to the same *James Jeoffrey* the elder in his life-time, or to the said *James* the younger in his life-time, or to the said *William* and *Frances* his wife, not being paid, the same *William* and *Frances* the deed aforesaid out of their hands and possession casually lost; which said deed afterwards, and after the administration aforesaid granted to the said *Frances*, to wit, the day of in the year aboveaid, at the parish of *St. Clement Danes* aforesaid in the county aforesaid, came to the hands and possession of the said *William Sperring* by finding: And whereas also the said *William* and *Frances* as administratrix of the said *James Jeoffrey* the elder, on the said day of in the year aboveaid, at the parish of *St. Clement Danes* aforesaid in the county aforesaid, were possessed of a certain deed indented sealed with the seal of the said *William Shalmer*, bearing date the said day of in the year aboveaid; by which said deed last mentioned the said *William Shalmer* demised to the said *James Jeoffrey* the elder in mortgage a certain other windmill, and divers other lands, meadow and pasture lying in *East Brent* and *Mark* aforesaid in the said county of *Somerset* for 1000 years, on condition for the payment of other 200 *l.* with the interest thereof by the said *William Shalmer* to the said *James Jeoffrey* the elder, on the said day of in the year aboveaid, as of the deed indented of the said *William* and *Frances*, and to the said *William* and *Frances* as administratrix to the said *James Jeoffrey* the elder belonging and appertaining; and being so thereof possessed, and the said 200 *l.* last mentioned not being paid to the said *James Jeoffrey* the elder in his life-time, or to the said *James Jeoffrey* the younger in his life-time, or to the said *William Wickham* and *Frances*, they the same *William* and *Frances* the deed indented last mentioned out of their hands and possession casually lost; which same deed indented afterwards, and after the administration aforesaid to the said *Frances*

Here it is laid over again.

Frances committed, to wit, the 10th day of September in the year aforesaid, in the parish of St. Clement Danes aforesaid in the county aforesaid, to the hands and possession of the said William Sperring by finding came: And whereas also the said William and Frances as administratrix to the said James Jeoffrey the elder, afterwards, to wit, the day of in the year above said, at the parish of St. Clement Danes aforesaid in the county aforesaid, were possessed of divers other goods and chattels, to wit, of 20 chairs, a silver tankard, a clock, two silver bowls, two silver salts, a caudle cup, 12 silver spoons, two gold rings, 100 pieces of gold, five feather beds and five carpets, as of the goods and chattels of the said William and Frances as administratrix to the said James Jeoffrey the elder, and being so thereof possessed the said William and Frances casually lost the said goods and chattels out of their hands and possession, which said goods and chattels so lost afterwards, to wit, the day of in the year above said, at the parish of Clement Danes aforesaid in the county aforesaid, came by finding to the hands and possession of the said William Sperring: Nevertheless the said William Sperring knowing the several deeds aforesaid to be the deeds of the said William Wickbam and Frances, and to the said William and Frances as administratrix to the said James Jeoffrey the elder, and knowing the goods and chattels aforesaid to be the goods and chattels of the said William Wickbam and Frances as administratrix to the said James Jeoffrey the elder, and to the said William Wickbam and Frances as administratrix to the said James Jeoffrey the elder of right to belong and appertain, and contriving and fraudulently intending the said William Wickbam and Frances of the said several deeds, and of the recovery of the money with the interest thereof by those deeds secured to be paid, and of the goods and chattels aforesaid craftily and subtilly to deceive and defraud, the said several deeds and the goods and chattels aforesaid to the said William Wickbam and Frances, altho' often required, &c. have not yet delivered, but those several deeds and the goods and chattels aforesaid afterwards, to wit, the day of in the year above said at the parish of St. Clement Danes aforesaid in the county aforesaid, to his own proper use converted and disposed, to the damage of the said William Wickbam and Frances 350 l. And therefore they produce the suit, &c.

Laid over again for other goods.

Doth not say to the value.

These words are not in the original, but seem necessary.

Miteball and Purnett.

Essex, to wit. Isaac Miteball late of Colchester in the county aforesaid, yeoman, was attached to answer to Thomas Purnett in a plea of trespass on the case, &c. And whereon the said Thomas by John Prichard his attorney complains, why whereas by a certain act made in the parliament of the Lord Henry the Sixth, late King of England, &c. held at Westminster in the county of Middlesex, on the 5th day of February in the 23d year of his reign, it was among other things enacted by the authority of the same Parliament, That all sheriffs, under-sheriffs, sheriffs clerks, stewards or bailiffs of franchises, servants of bailiffs or coroners, should let out of prison all manner of persons by them or any of them arrested, or being in their custody by force of any writ, bill or warrant in any action personal, or by cause of indictment by trespass, upon reasonable sureties of sufficient persons, having sufficient within the counties where such persons be so let to bail or mainprize, to keep their days in such place as the said writs, bills or warrants should require, as by the statute aforesaid more fully is manifest and doth appear: After the publication of which said act, to wit, on the 37th day of June in Trinity term in the 35th year of the reign of the Lord Charles the Second, late King of England, &c. one Thomas Hayes the elder prosecuted out of the court of the said late King of the Bench here, to wit, at Westminster, a certain writ of the said late King of Copias to answer against the said Thomas and other persons in the said writ named, directed to the then sheriff of the county of Essex, by which said writ the same Lord the King commanded the said sheriff that he should take the said Thomas and the other persons, if they should be found in his bailiwick, and them safely should keep, so that he might have their bodies before the justices of the said late King of the Bench at Westminster aforesaid, in the Octave of St. Martin then next following, to answer to the said Thomas Hayes in a plea why with force and arms, &c. the oysters, to wit, 80 bushels of oysters of the said Thomas to the value of 20 l. at the parish of Westminster and Lagenboe there lately found they took and carried away, and did him other injuries, to the great damage of the said Thomas, and against the peace of the said late King; and that the same sheriff should have then there that writ: Which said writ the said Thomas afterwards, and before the return of the same, to wit, the 16th day of August in the 35th year of the reign of the said late King, at Heybridge delivered to one William Pert, Esq; then sheriff of the county aforesaid, in form of law to be executed; which said sheriff for the execution of that writ afterwards, to wit, the same 16th day of August in the 35th year of the reign of the said late King,

Case on the statute of 23 H. 6. cap. 10. against a bailiff for refusing to take bail on an arrest.

Copias sued out of C. B.

delivered to the sheriff.

Warrant made by the sheriff to the bailiff of the hundred.

The plaintiff arrested.

Bail tendered.

The bailiff refused them, and carried him to gaol.

Case for enticing away his servant.

King, at *Heybridge* aforesaid, made his certain warrant in writing sealed with the seal of his office of sheriff of the county aforesaid, directed to the then bailiffs of the hundreds of *Lexon, Tendrin, Winsfree* and *Thurstalle*; by which said warrant the same sheriff commanded the bailiffs of the hundreds aforesaid, that they should take the same *Thomas* and the other persons aforesaid, if, &c. and them safely, &c. so that they might have their bodies before the said justices of the said late King of the bench aforesaid, at *Westminster* aforesaid, to answer in form aforesaid: Which said warrant afterwards, and before the return of the same, to wit, the last day of *August* in the 35th year aforesaid, at *Heybridge* aforesaid, to the said *Isaac* then and at the time of the making of the said warrant, and continually from thence until the return of the said writ, being bailiff of the said hundred of *Winsfree* aforesaid, was delivered in form of law to be executed, by virtue of which said warrant the said *Isaac*, being bailiff of the said hundred of *Winsfree* as is aforesaid, afterwards, and before the return of the said writ, to wit, the first day of *September* in the 35th year of the reign of the said late King aforesaid, at *Heybridge* aforesaid, took and arrested the said *Thomas*: And the said *Thomas* in fact says, that immediately after the taking and arresting of the said *Thomas*, he the said *Thomas* offered to the said *Isaac* reasonable sureties of sufficient persons, to wit, *John Doe* of, &c. in the county aforesaid, Gent. and *Richard Jones* of, &c. in the county aforesaid, Gent. then and there being sufficient persons, and having and each of them then having sufficient within the county aforesaid, for his appearance, according to the command of the said writ, according to the form of the statute aforesaid: Nevertheless the said *Isaac* not considering the said statute, but contriving and maliciously intending unjustly to aggrieve and oppress the said *Thomas* in this behalf, absolutely refused to accept his said sureties, and immediately carried him the said *Thomas* to the common gaol of the said late King for the county aforesaid at *Chelmsford*, and there detained him in the said gaol a prisoner under the custody of the said *William Pert* then sheriff of the same county, until he paid to the same *Isaac* a fine of 40 s. against the form of the statute aforesaid; whereby he says that he is prejudiced, and has damage to the value of 40 l. And therefore he produces the suit, &c.

J. W. complains of *T. G.* in custody of the marshal, &c. for this, to wit, that whereas one *A. B.* on the first day, &c. at, &c. was rightfully and lawfully retained and placed in the service of the said plaintiff to transact certain affairs of the said plaintiff, unto the end of one year then next following and fully to be compleat and ended; and the same *A. B.* had served for the space of six months next after the first day of *May* in the year, &c. aforesaid in the service of the said plaintiff, whereby the same plaintiff obtained and acquired divers great profits and advantages from the labour and service of the said *A. B.* his servant: Nevertheless the defendant not ignorant of the premises, but contriving craftily and subtly to deceive and defraud the said plaintiff of his servant aforesaid, and retained in his service as a hired servant, and of all the profits, benefits and advantages, which the said plaintiff by reason of his servant aforesaid might have and gain, procured the said *A. B.* to depart from and leave the service of the said plaintiff against the will of the said plaintiff, whereby the said plaintiff intirely lost the service of the said *A. B.* his servant for a long time, to wit, for the space of to the damage of the said plaintiff 50 l. And therefore he produces the suit, &c.

Andrews and another and Lee.

Case for stopping a way to the plaintiff's close.

The plaintiff seised in fee.

Had and ought to have a way is good in a possessory action. So also in case the defendant is a stranger, and stops up my close; but if the defendant stops up my way in his own close, then I must prescribe for the Way. So note a diversity where the defendant is a stranger, and where owner of the ground.

North'ton, to wit. *JOHN Andrews* the elder late of *Liwarne* in the county aforesaid, yeoman, and *John Andrews* the younger late of *Liwarne* aforesaid, yeoman, were attached to answer to *William Lee*, Gent. in a plea of trespass on the case, &c. And whereon the said *William* by *John Underwood* his attorney complains, that whereas the said *William* on the first day of *May* in the eighth year of the reign of the Lord *William* the Third, now King of *England*, &c. and continually afterwards unto the 10th day of *May* in the 8th year of the reign of the said Lord *William* the Third, now King of *England*, &c. was seised in his demesne as of fee of and in a close of pasture, called *The Convenience* in *Liwarne* aforesaid in the county of *Northampton* aforesaid, and that the said *William* on the said first day of *May*, and continually afterwards until the said tenth day of *May*, had and ought to have for himself and his servants at all times in the year, at their will, as well a foot-way as a horse-way in, upon and thro' and beyond a certain close, called *The Butlees* in *Liwarne* aforesaid, from a certain highway in *Liwarne* aforesaid, called *Liwarne Street*, to the said close of him the said *William*, called *The Convenience*,

venience, and so back again to drive and drive back the cattle of the said *William*, and to carry and carry back with his carts and carriages as to the said close belonging and appertaining: Nevertheless the said *John* and *John* contriving and intending unjustly to disturb the said *William*, and to hinder and deprive him of his way aforesaid, on the said first day of *May* in the 8th year aforesaid, at *Liwarne* aforesaid in the county of *Northampton* aforesaid, a certain ditch and hedge a-cross the way of him the said *William* in the close aforesaid, called *The Butlees*, to the close of him the said *William*, called *The Convenience*, dug, made and continued, and also the said way there did so much obstruct and stop, that the said *William* was totally hindered and deprived of his way aforesaid in form aforesaid to be had, from the said first day of *May* to the said 10th day of *May* in the 8th year aforesaid, to the damage of the said *William* 20*l*. And therefore he produces the suit, &c.

¹ Ventr. 274.
² Ventr. 115,
186, 187.

Man and another against Oades.

London, to wit. *James Oades* late of *London*, notary, was attached to answer to *Robert* Case by an indorsee against the drawer of a promissory note. *Man* and *William Day* in a plea of trespass on the case, &c. And whereon the same *Robert Man* and *William Day* by G. R. their attorney complain, why whereas the said *James* after the first day of *May* in the year of our Lord 1705, to wit, the 11th day of *June* in the year of the Lord 1708, at *London* aforesaid in the parish of *St. Mary le Bow* in the ward of *Cheape*, made his certain note in writing with his own proper hand thereto subscribed, called a promissory note, bearing date the same day and year last aforesaid, and thereby promised to pay to one *Mr. Richard Fowke* or order 100*l*. on the 1st day of *October* then next following for like value received, and the said 100*l*. being unpaid, he the said *Richard* afterwards, to wit, the same day and year last aforesaid, at *London* aforesaid in the parish and ward aforesaid, indorsed that note with his own proper hand thereto subscribed, and thereby appointed the contents of the same note to be paid to one *William Bawcock* or his order, value received, and the said 100*l*. not being paid, he the said *William Bawcock* afterwards, to wit, the same day and year last aforesaid, at *London* aforesaid in the parish and ward aforesaid, indorsed the said note with his own proper hand thereto subscribed, and thereby appointed the contents of the same note to be paid to the said *Robert Man* and *William Day* or their order, for value received, whereof the said *James Oades* afterwards, to wit, the same day and year, at *London* aforesaid in the parish and ward aforesaid, had notice: And by reason of the premisses, and by force of the statute in such case lately made and provided, the same *James* was and became liable to pay to the said *Robert Man* and *William Day* the same sum of money according to the tenor of the note aforesaid; and so being thereto liable the same *James* afterwards, to wit, the same day and year aforesaid, at *London* aforesaid in the parish and ward aforesaid, in consideration thereof assumed upon himself, and to the same *Robert Man* and *William Day* then and there faithfully promised, to pay them the same sum of money according to the tenor of the note aforesaid: Nevertheless the said *James* his promise and assumption aforesaid not regarding, but contriving and fraudulently intending the said *Robert Man* and *William Day* in this behalf craftily and subtilly to deceive and defraud, the said 100*l*. or any penny thereof, to the same *Robert Man* and *William Day*, or either of them, hath not yet paid, (although to do it he was required by the said *Robert Man* and *William Day* afterwards, to wit, the 1st day of *October* in the 7th year of the reign of the Lady the now Queen, and often after, at *London* aforesaid in the parish and ward aforesaid,) but hath hitherto altogether denied and yet doth deny to pay them the same, to the damage of them the said *Robert Man* and *William Day* 130*l*. And therefore they produce the suit, &c.

Not in the original.

I promise to pay to Mr. Richard Fowke or order 100*l*. upon the 1st day of *Octob* 1718.

Witness my hand,
James Oades.
Indorsed thus,
Ri. Fowke.
Indorsed again,
Will. Bawcock.

Bolsworth against Pilkington.

Surry, to wit. *Thomas Pilkington* late of *Southwark* in the county of *Surry*, Esq; was attached to answer to *Edward Bolsworth* in a plea of trespass on the case, &c. and whereon the same *Edward* by *Thomas Rous* his attorney complains, why whereas the said *Edward* is a good, true and faithful subject of the Lord the now King, and now and for divers years now last past hath used and yet doth exercise the art or mystery of a perfumer, and as a faithful buyer and seller in the same art in bargaining, buying and selling therein, hath always behaved himself, and as a good, true and faithful subject of the said Lord the King from the time of his birth hitherto hath carried himself, and of a good name, fame and reputation among very many of the liege subjects of the said Lord the King for all the time aforesaid was had, said, held and reputed to be, and for many years now past within this kingdom of *England*, with very many subjects of the said King, the art or mystery of a perfumer by way of merchandizing, selling and lawfully bargaining, hath exercised and used, and yet

Case for words, You are a broken fellow, - and cannot pay your debts.
Parl. Rep. 12.
Pract. Reg. 706 to 711.

That the plaintiff was a tradesman, and had paid all his debts.

To bring him into the danger of being accounted a bankrupt.

The words.

The second words.

The third words.

In this case the plaintiff recovered a verdict for 800*l.* upon which a writ of error was brought in parliament, and judgment affirmed.

yet doth use and exercise, and for all the said time his credit and promises in all transactions and affairs relating to the said art and mystery, as also true and faithful payment of his debts at all times without any mark of falsity, deceit or breaking, hath kept, performed and fulfilled, and by that means acquired and enjoyed great credit and the good opinion of sundry subjects of the said Lord the King, and hath likewise daily honestly gained and obtained a maintenance and support for his family: Nevertheless the said *Thomas* not ignorant of the premisses, but maliciously and wickedly intending the name, fame, estate and reputation of the said *Edward* to draw in question, lessen and blacken, and to bring on him the said *Edward* the mistrust of the subjects of the Lord the King, and to draw him into scandal and infamy, so that the said subjects of the said Lord the King should desist from bargaining, negotiating, or any way dealing with the said *Edward*, and should repute and esteem him a bankrupt, on the 7th day of *January* in the 33d year of the reign of our Lord *Charles* the Second, now King of *England*, &c. at *Southwark* in the county of *Surry* aforesaid, these false, feigned, scandalous and opprobrious words following of the same *Edward*, in the presence and hearing of several faithful subjects of the said Lord the now king, falsely and maliciously spoke, related, uttered, published, and with a loud voice pronounced, to wit, You (meaning the said *Edward*) are a pitiful broken fellow, and are not able to pay your debts (meaning the debts of the said *Edward*): And whereas also the same *Thomas* afterwards, to wit, the day, year and place aforesaid, out of his farther malice and envy against him the said *Edward* before had and conceived, these other false, feigned, scandalous and opprobrious words following of the said *Edward*, and to the said *Edward*, in the presence and hearing of several other subjects of the said Lord the now King, falsely and maliciously spoke, related, uttered, published, and with a loud voice pronounced, to wit, You (meaning the said *Edward*) are a pitiful broken fellow, go home and pay your debts (meaning the debts of the said *Edward*): And whereas also the said *Thomas* afterwards, to wit, the day, year and place aforesaid, out of his farther malice and envy against the said *Thomas* before had and conceived, these other false, feigned, scandalous and opprobrious words following of the said *Edward*, and to the said *Edward*, in the presence and hearing of several other subjects of the said Lord the now King, did speak, relate, utter, publish, and with a loud voice pronounce, to wit, You (meaning the said *Edward*) are a pitiful broken fellow, and cannot pay your debts (meaning the debts of the said *Edward*); by reason of the speaking and publishing of which said false, feigned, scandalous and opprobrious words, the said *Edward* is not only greatly impaired and prejudiced in his good name, reputation and credit, but also is very much hurt and prejudiced in transacting his business with those persons with whom he used formerly to trade in buying, selling and lawfully merchandizing, and on that account several subjects of the said Lord the King have absolutely refused and do refuse to trade or have any dealings with the said *Edward*; whereby he is prejudiced, and hath damage to the value of 1000*l.* And therefore he produces the suit, &c.

Clark, one, &c. and Chauncey.

Mich. 31 Car. 2. in C. B.

Case on the statute of *Magna charta*, cap. 29. that no freeman shall be taken or imprisoned without lawful judgment of his peers,

London, to wit. **H**enry Chauncey, Esq; *W. S. &c.* were attached by writ of the said Lord the King of privilege issuing out of the court here to answer to *Nicholas Clarke*, Gent. one of the attornies of the court of the Lord the King of the Bench, according to the liberty and privilege of the same court for such attornies and other ministers of the same Bench from time immemorial used and approved in the same, in a plea why whereas by the statute of *Magna charta* among other things it is contained, That no freeman shall be taken or imprisoned, or be disseised of his freehold, or liberties or free customs, or outlawed or exiled, or any otherwise destroyed, nor we will not pass upon him nor condemn him but by lawful judgment of his peers, or by the law of the Land, as by the same statute more fully appears: And whereas the same *Nicholas* is and from the time of his birth hitherto was a freeman of this kingdom of *England*, and ought, according to the law and free custom of *England*, to have and enjoy the liberties and free customs of this kingdom of *England*; they the said *Henry Chauncey*, *W. S. &c.* not ignorant of the premisses, the same statute not regarding, but contriving to disinheret the said *Nicholas* of the liberties and free customs aforesaid, against the form of the statute aforesaid, with force and arms at *London* aforesaid in the parish of

of St. Mary, &c. made an assault upon the said *Nicholas*, and beat, wounded, took, imprisoned and abused him, and him the said *Nicholas* so in prison detained, without any reasonable cause, contrary to the law and custom of this realm of *England*, against the will of the said *Nicholas*, until the said *Nicholas* found manucaptors that he should appear at the next assises and general gaol-delivery to be held for the county of *Hertford*, and in the mean time should be of good behaviour, and offer'd him other injuries, to the great damage of the said *Nicholas*, and against the peace of the Lord the now King, &c. And whereupon the said *Nicholas* in his proper person complains, why whereas by the statute of *Magna Charta* among other things it is contained, that no freeman shall be taken or imprisoned, or be disseised of his freehold or liberties, or free customs, or outlawed or exiled, or any otherwise destroyed, nor we will not pass upon him nor condemn him but by lawful judgment of his peers, or by the law of the land, as by the same statute more fully appears: And whereas the same *Nicholas* is and from the time of his birth hitherto was a freeman of this kingdom of *England*, and ought according to the law and free custom of *England* to have and enjoy the liberties and free customs of this kingdom of *England*; they the same *Henry Chauncy*, *W. S.* &c. not ignorant of the premisses, the same statute not regarding, but contriving to disinherit the said *Nicholas* of the liberties and free customs aforesaid, against the form of the statute aforesaid, on the 29th day of *September* in the 31st year of the reign of the Lord *Charles* the Second, &c. with force and arms, to wit, swords, staffs and knives, at *London* aforesaid, &c. made an assault upon him the said *Nicholas*, and beat, wounded, took, imprisoned and abused him, and him the said *Nicholas* so in prison detained, without any reasonable cause, contrary to the law and customs of this kingdom of *England*, against the will of the said *Nicholas* for a long time, to wit, for the space of two hours, until he the said *Nicholas* found certain manucaptors that he should appear at the next assises and general gaol-delivery to be held for the county of *Hertford*, and in the mean time should be of good behaviour, against the peace of the Lord the King and the customs of this kingdom of *England*, and other injuries, &c. to the great damage, &c. By reason whereof the said *Nicholas* is greatly disquieted and disturbed, and of the liberties and free customs aforesaid was disinherited, against the form of the statute aforesaid, and is very much hindered in his business as an attorney; whereby he says that he is prejudiced, and has damage to the value of 500*l.* And therefore he produces the suit, &c.

The defendants assaulted and imprisoned him till he found bail to appear at the next assises.

The count on the writ.

Plead Not guilty, and give in evidence the fact was done in Hertfordshire.

Edm. Saunders.

Medlicott against Mounson.

Hertford, to wit. **J.** *M.* late of *Broxborne* in the county aforesaid, Knight of the *Bath* and *Bart.* was summoned to answer to *Thomas Medlicott* in a plea that he render unto him 144*l.* which he owes him and unjustly detains, &c. And whereon the said *Thomas Medlicott* by *Charles Nicholls* his attorney says, that whereas by a certain act made in the Parliament of the Lord *Edward* the Sixth, held at *Westminster* in the county of *Middlesex* the fourth day of *November* in the second year of his reign, it was among other things enacted by the authority of the same Parliament, that every of the King's subjects should from thenceforth truly and justly without fraud or guile divide, set out, yield and pay all manner of their predial tithes in their proper kind, as they rise and happen, in such manner and form as had been of right yielded and paid within forty years next before the making of that act, or of right or custom ought to have been paid; and that no person should from thenceforth take or carry away any such or like tithes which had been yielded or paid within the said 40 years, or of right ought to have been paid, in the place or places tithable of the same, before he had justly divided or set forth for the tithe thereof the 10th part of the same, or otherwise agreed for the same tithes with the parson, vicar, or other owner, proprietary or farmer of the same tithes, under the pain of forfeiture of treble value of the tithes so taken or carried away, as by the same act, among other things, more fully appears: And whereas also the said *Thomas* after the making of the said act, to wit, on the first day of *January* in the 28th year of the reign of the Lord the now King, and long before, and from thence ever after hitherto was and yet is farmer of all and singular the tithes of grain, wood and hay yearly growing or renewing in and upon any of the lands, meadows and woods belonging to the rectory of *Chebbunt* in the county of *Hertford*, lying and being within the ward, commonly called or known by the name of *Walibam Cross Ward*, and to part of the ward, commonly called or known by the name of *Woodside Ward* in the parish of *Chebbunt*, which part of the ward aforesaid extends

Decl' on 2 & 3 E. 6. c. 13. for not setting forth tithes of copse wood under the growth of 21 years. Pasch. 33 Car. 2.

The recital of the statute.

The forfeiture. The plaintiff farmer of the tithes in part of the parish.

extends from *Brookeside* to *Cbesbunt Church-gate*, and by the highway to a place called *Flamstead End*, and so from *Flamstead End* from thence by *Cbesbunt Park-lane* to a place called *Hollow Cross*, which said part of the ward last mentioned lies towards the west on the several ways, lands and places last mentioned: And whereas also the said *John Mounson* being a subject of the Lord the now King, and a freeman of *England*, on the first day of *April* in the 29th year of the reign of the said Lord the now King, was and ever since has been and yet is occupier of 2000 acres of wood-land, commonly called *Cbesbunt Common*, with the appurtenances, belonging to the rectory of *Cbesbunt*, and lying within the said ward of *Waltham Cross*, and the said part of the ward of *Woodside Ward* in the parish of *Cbesbunt* aforesaid; of which said 2000 acres of wood-land, the tithes of the wood and underwood, lops and tops of the said woods, being coppice-wood under the growth of 20 years in and upon the same 2000 acres of wood-land, with the appurtenances, respectively growing, coming, renewing, happening and arising within 40 years next before the making of the act aforesaid, of right ought and were accustomed to be paid in their proper kinds and species by the occupier or occupiers of the same for the time being to the rector of *Cbesbunt* aforesaid, or to his farmer or deputy, or other proprietor of that rectory or of the tithes thereof for the time being: And the said *John* being so as aforesaid occupier of the said 2000 acres of wood-land, and the said *Thomas* being so as aforesaid farmer of the tithes aforesaid in form aforesaid, the said *John* afterwards, to wit, on the third day of *January* in the 29th year of the reign of the said Lord the now King aforesaid, cut down, lopt and topt the wood and underwood then growing in and upon 200 acres of land, parcel of the said 2000 acres of wood-land, being coppice-wood and under the growth of 20 years, the tithes of which said wood and underwood, lops and tops aforesaid, in and upon the said 200 acres, parcel of the said 2000 acres of wood-land, in the same year respectively as aforesaid growing, renewing and coming, did belong and of right ought to be yielded and paid to the same *Thomas*, being as aforesaid farmer of the said tithes: Nevertheless the said *John* all the wood and underwood aforesaid, and the lops and tops of the wood aforesaid, in and upon the said 200 acres, parcel of the said 2000 acres of wood-land, in the same year growing, renewing and coming, being as aforesaid coppice-wood, and under the growth of 20 years, after the said cutting down, lopping and topping of the said wood and underwood aforesaid, to wit, on the said third day of *January* in the 29th year of the reign of the said Lord the now King aforesaid, without any division, throwing out or setting forth for the tithe thereof, the tenth part of the same wood, underwood, lops and tops aforesaid, and without any agreement made for the same tithes by the said *John* with the said *Thomas*, at *Cbesbunt* aforesaid took and carried away: And whereas also the said *John* afterwards, to wit, on the first day of *April* in the 30th year of the reign of the said Lord the now King, the same *John* being then, as is aforesaid, the occupier of the said 2000 acres of wood-land, commonly called *Cbesbunt Common*, with the appurtenances, belonging to the rectory of *Cbesbunt*, and lying within the said ward of *Waltham Cross*, and the said part of the ward of *Woodside Ward* in the parish of *Cbesbunt* aforesaid, of which said 2000 acres of wood-land, the tithes of the wood and underwood, lops and tops of the wood aforesaid, being coppice-wood, and under the growth of 20 years, in and upon the same 2000 acres of wood-land, with the appurtenances, respectively growing, coming, renewing, happening and arising within 40 years next before the making of the said act, of right ought and were accustomed to be paid in their proper kinds and species by the occupier or occupiers of the same for the time being to the rector of *Cbesbunt* aforesaid, or to his farmer or deputy, or other proprietor of that rectory or of the tithes thereof for the time being; and the said *John* so aforesaid being occupier of the said 2000 acres of wood-land, with the appurtenances, and the said *Thomas* being so as aforesaid farmer of the said tithes in form aforesaid, the said *John* afterwards, to wit, on the third day of *January* in the 30th year of the reign of the said Lord the now King, the wood and underwood in and upon other 200 acres of land, parcel of the said 2000 acres of wood-land then growing, being coppice-wood, and under the growth of 20 years, did cut down, lop and top, the tithes of which said wood and underwood, lops and tops aforesaid, in and upon the said other 200 acres of land, parcel of the said 2000 acres of wood-land, in the same year respectively as aforesaid growing, renewing and coming, did belong and of right ought to be paid and yielded to the same *Thomas*, being as aforesaid farmer of the said tithes: Nevertheless the said *John* all the wood and underwood aforesaid, and the lops and tops of the wood aforesaid in and upon the said other 200 acres, parcel of the said 2000 acres of wood-land, in the same year growing, renewing and coming, being as aforesaid coppice-wood, and under the growth of twenty years, after the said cutting down, lopping and topping of the wood and underwood aforesaid, to wit, on the said third day of *January* in the thirtieth year of the reign of the said Lord the now King aforesaid, without any division

Coppice-wood.

The cause of action.

Did not set forth his tithe, or make any agreement.

Second count.

Lops and tops.

Did not pay tithes.

fion, throwing out or setting forth for the tithes thereof the tenth part of the same wood, underwood, lops and tops aforesaid, and without any agreement made for the same tithe by the said *John* with the said *Thomas*, at *Cbesbunt* aforesaid took and carried away: And whereas also the said *John* afterwards, to wit, on the 1st day of *April* in the 31st year of the reign of the said Lord the now King, the same *John* then being as aforesaid occupier of the said 2000 acres of wood-land, commonly called *Cbesbunt Common*, with the appurtenances, belonging to the rectory of *Cbesbunt*, and lying within the said ward of *Waltbam Cross*, and the said part of the ward of *Woodside Ward* in the parish of *Cbesbunt* aforesaid, the tithes of which said wood and underwood, lops and tops of the said wood being coppice-wood and under the growth of twenty years in and upon the said 2000 acres of wood-land with the appurtenances respectively growing, coming, renewing, happening and arising within 40 years next before the making of the said act, of right ought and were accustomed to be paid in their proper kinds and species by the occupier or occupiers of the same for the time being to the rector of *Cbesbunt* aforesaid, or to his farmer or deputy, or other proprietor of that rectory or of the tithes thereof for the time being; and the said *Thomas* being so as aforesaid farmer of the said tithes in form aforesaid, the said *John* afterwards, to wit, on the 3d day of *January* in the 31st year of the reign of the said Lord the now King aforesaid, the wood and underwood in and upon other 200 acres of land, parcel of the said 2000 acres of wood-land then growing, being coppice-wood and under the growth of 20 years, did cut down, lop and top, the tithes of which said wood and underwood, lops and tops aforesaid, in and upon the said other 200 acres, parcel of the said 2000 acres of wood-land in the same year respectively growing, renewing and coming as aforesaid, did belong and of right ought to be paid and yielded to the said *Thomas*, being as is aforesaid farmer of the said tithes: Nevertheless the said *John* all the wood and underwood aforesaid, and the lops and tops of the said wood in and upon the said other 200 acres, parcel of the said 2000 acres of wood-land in the same year growing, renewing and coming, being as aforesaid coppice-wood and under the growth of 20 years, after the said cutting down, lopping and topping of the wood and underwood aforesaid, to wit, on the said 3d day of *January* in the 31st year of the reign of the said Lord the now King aforesaid, without any division, throwing out or setting forth for the tithe thereof the tenth part of the said wood and underwood, lops and tops aforesaid, and without any agreement made for the same tithe by the said *John* with the said *Thomas*, at *Cbesbunt* aforesaid took and carried away: And whereas also the said *John* afterwards, to wit, the 1st day of *April* in the 32d year of the reign of the said Lord the now King, the said *John* being then so as aforesaid occupier of the said 2000 acres of wood-land, commonly called *Cbesbunt Common*, with the appurtenances, belonging to the rectory of *Cbesbunt*, and lying within the said ward of *Waltbam Cross*, and the said part of the ward of *Woodside Ward* in the parish of *Cbesbunt* aforesaid, of which said 2000 acres of wood-land the tithes of the wood and underwood, the lops and tops of the wood aforesaid being coppice-wood and under the growth of 20 years, in and upon the same 2000 acres of wood-land, with the appurtenances, respectively growing, coming, happening and arising within forty years next before the making of the said act, of right ought and were accustomed to be paid in their proper kinds and species by the occupier or occupiers of the same for the time being to the rector of *Cbesbunt* aforesaid, or to his farmer or deputy, or other proprietor of that rectory or of the tithes thereof for the time being; and the said *John* being so as aforesaid occupier of the said 2000 acres of wood-land, with the appurtenances, and the said *Thomas* being so as aforesaid farmer of the said tithes in form aforesaid, the said *John* afterwards, to wit, on the third day of *January* in the thirty-second year of the reign of the said Lord the now King aforesaid, the wood and underwood in and upon other 200 acres of land, parcel of the said 2000 acres of wood-land then growing, being coppice-wood and under the growth of twenty years, did cut down, lop and top, the tithes of which said wood and underwood, lops and tops aforesaid in and upon the said other 200 acres, parcel of the said 2000 acres of wood-land in the same year respectively as aforesaid growing, renewing and coming, did belong and of right ought to be paid and yielded to the said *Thomas*, being as is aforesaid farmer of the said tithes: Nevertheless the said *John* all the wood and underwood aforesaid, the lops and tops of the said wood in and upon the said 200 acres of land, parcel of the said 2000 acres of wood-land in the same year growing, renewing and coming, being as aforesaid coppice-wood and under the growth of twenty years, after the said cutting down, lopping and topping of the wood and underwood aforesaid, to wit, the said third day of *January* in the thirty-second year of the reign of the said Lord the now King aforesaid, without any division, throwing out or setting forth for the tithe thereof the tenth part of the said wood, underwood, lops and tops aforesaid, and without any agreement made by the said *John* with the said *Thomas*

Third count.

Coppice-wood 20 years growth.

Fourth count.

Lops and tops of coppice-wood.

The cause of action.

Fifth count. for the same tithe, at *Cbesbunt* aforesaid did take and carry away: And whereas also the said *John* afterwards, to wit, on the first day of *April* in the 33d year of the reign of the said Lord the now King, the same *John* then being so as aforesaid occupier of the said 2000 acres of wood-land, commonly called *Cbesbunt Common*, with the appurtenances, belonging to the rectory of *Cbesbunt* aforesaid, and lying in the said ward of *Walsbam Cross*, and the said part of the ward of *Woodside Ward* in the parish of *Cbesbunt* aforesaid, of which said 2000 acres of wood-land the tithes of the wood and underwood, the lops and tops of the wood aforesaid being coppice-wood and under the growth of 20 years in the same 2000 acres of wood-land with the appurtenances respectively growing, coming, renewing, happening and arising within 40 years next before the making of the said act, of right ought to be and were accustomed to be paid in their proper kinds and species by the occupier or occupiers of the same for the time being to the rector of *Cbesbunt* aforesaid, or to his farmer or deputy, or other proprietor of that rectory or of the tithes thereof for the time being; and the said *John* being so as aforesaid occupier of the said 2000 acres of wood-land, with the appurtenances, and the said *Thomas* being so as aforesaid farmer of the said tithes in form aforesaid, the said *John* afterwards, to wit, the 3d day of *January* in the 33d year of the reign of the said Lord the now King, did cut down, lop and top the wood and underwood in and upon other 200 acres of land parcel of the said 2000 acres of wood-land then growing, being coppice-wood and under the growth of 20 years, the tithe of which said wood and underwood, lops and tops aforesaid in and upon the said other 200 acres, parcel of the said 2000 acres of wood-land in the same year respectively as is aforesaid growing, renewing and coming, did belong and of right ought to be paid and yielded to the said *Thomas*, being as aforesaid farmer of the said tithes: Nevertheless the said *John* after the said cutting down, lopping and topping of the wood and underwood aforesaid, to wit, on the said 3d day of *January* in the 33d year of the reign of the said Lord the now King aforesaid, at *Cbesbunt* aforesaid, did take and carry away all the wood and underwood aforesaid, and the lops and tops of the said wood in and upon the said other 200 acres of land, parcel of the said 2000 acres of wood-land in the same year growing, renewing and coming, being as aforesaid coppice-wood and under the growth of 20 years, without any division, throwing out or setting forth for the tithe thereof the tenth part of the same wood and underwood, lops and tops aforesaid, and without any agreement made for the same tithe by the said *John* with the said *Thomas*, against the form of the statute aforesaid: And the same *Thomas* in fact says, that the tithes of the wood and underwood, lops and tops of the wood aforesaid, in the 29th year of the reign of the said Lord the now King aforesaid, so as aforesaid not divided, thrown out or set forth, and by the said *John* taken and carried away, at the said time of the taking and carrying away of the same were worth 10*l.* of lawful money of *England*; and the tithes of the wood and underwood, lops and tops of the wood aforesaid, in the 30th year of the reign of the said Lord the now King aforesaid, so as aforesaid not divided, thrown out or set forth, and by the said *John* taken and carried away, at the said time of the taking and carrying away of the same were worth 10*l.* of like money of *England*; and that the tithes of the wood, underwood, and lops and tops of the wood aforesaid, in the 31st year of the reign of the said Lord the now King aforesaid, so as aforesaid not divided, thrown out or set forth, and by the said *John* taken and carried away, at the said time of the taking and carrying away of the same were worth 10*l.* of like lawful money of *England*; and also that the tithes of the wood and underwood, lops and tops of the wood aforesaid, in the 32d year of the reign of the said Lord the now King aforesaid, so as aforesaid not divided, thrown out or set forth, and by the said *John* taken and carried away, at the said time of the taking and carrying away of the same were worth 9*l.* of like lawful money of *England*; and that the tithes of the wood and underwood, lops and tops of the wood aforesaid, in the 33d year of the reign of the said Lord the now King aforesaid, so as aforesaid not divided, thrown out or set forth, and by the said *John* taken and carried away, at the said time of the taking and carrying away of the same were worth 9*l.* of like lawful money of *England*; which said several sums of money in the whole amount to 48*l.* whereby and by virtue of the statute aforesaid an action accrued to the said *Thomas* to demand and have of the said *John* the said 144*l.* to wit, the treble value of the tithes of the wood, underwood, lops and tops of the wood aforesaid by the said *John* in the said several five years in form aforesaid taken and carried away: Nevertheless the said *John*, although often required, the said 144*l.* to the same *Thomas* hath not yet rendered, but hath hitherto denied and yet doth deny to render him the same; whereby he says that he is prejudiced, and hath damage to the value of 10*l.* And therefore he produces the suit, &c.

*Dummer against Fitch.**Mich. 11 W. 3. Roll 333.*

Midd., to wit. **E**dward Dummer, Esq; complains of *John Fitch* in the custody of the Declaration true, very faithful, upright, honest and sincere liege and subject of the Lord the now King and of the Lady *Mary* late Queen of *England* deceased, as also of the said Lord the now King after the demise of the said Queen, and was of a good name, reputation, conversation and condition, and was reputed and esteemed as such, not only among his neighbours and other faithful subjects of the said Lord the King and of the said late Lady the Queen, but also of the said Lord the now King after the demise of the said Lady the Queen: And whereas also the said Lord *William* the Third, now King of *England*, and the said Lady *Mary* the Second, late Queen of *England*, by their letters patent under the great seal of *England*, bearing date at *Westminster* the 9th day of *August* in the fourth year of their reign, constituted and appointed him the said *E. D.* surveyor of the fleet and navy of the said Lord and Lady the King and Queen in the place of one *J. T.* Knt. then deceased, and gave and granted full power and authority to him the said *E. D.* by himself, or his sufficient deputy or deputies, to perform and execute the duty belonging to the said surveyor of their fleet and navy during their pleasure; and farther gave and granted to the same *E. D.* for the execution of the office of the said place or employment aforesaid, and during his continuance in the same, the yearly salary or allowance of 500 *l.* of lawful money of *England*, together with such a number of clerks, and with such salaries and allowances for them, as were or should be allowed by the high admiral or commissioner of the same King and Queen, for the execution of the office of high admiral for the time being; in which said office to the same *E. D.* as aforesaid granted, he faithfully, skilfully, diligently and truly, during his continuance in that office, did serve and did behave himself well and faithfully in the same, and by reason thereof the said *E. D.* in his said office from the time of the grant of the same until to and after the time of the speaking and publishing of the false, feigned and scandalous words hereafter specified, continued and was, and that office, together with the salary, profits, privileges, emoluments and advantages thereto belonging for his maintenance and support, lawfully and honestly enjoyed: Nevertheless the said *J.* who during the time that the said *E. D.* continued in the said office, and before the speaking of the false words hereafter specified, worked at, and in certain works in about the building of a certain dry dock, to wit, at *P.* in the county of *S.* by the said *J.* to be done and performed for the said Lord the now King, of which works he the said *E. D.* by virtue of his office aforesaid was surveyor, not ignorant of the premisses, but greatly envying the happy estate of the said *E. D.* and contriving and maliciously intending unjustly to aggrieve the said *E. D.* and his good name and reputation to hurt and detract, and to bring him the said *E. D.* into the ill opinion of the said Lord the now King, and into scandal, ignominy and disgrace among all the faithful subjects of the said Lord the now King, to whom the said *E. D.* was known, and to cause him to be deprived and removed of and from his office aforesaid, and him in his estate and means of livelihood to impoverish and intirely destroy and ruin, lately and while the said *E. D.* held, occupied and enjoyed the said office of surveyor of the fleet and navy of the said Lord the now King, to wit, on the 10th day of *November* in the 10th year of the reign of the Lord *William* the Third, now King of *England*, &c. at *Westminster* in the county aforesaid, certain false, feigned and scandalous words of the same *E. D.* in the presence and hearing of very many liege subjects of the said Lord the now King, openly and publicly spoke, uttered and published in these *English* words following, to wit, I (meaning him the said *J.*) have given Mr. *D.* (meaning the said *Edward*) at several times 800 *l.* as bribes, and I (meaning him the said *J.*) will prove the said sums were given him (again meaning the said *E.*) and the times when; I (again meaning him the said *J.*) have overcome the King, and now I (again meaning him the said *J.*) will fall upon that rascal *D.* (meaning the said *Edward*) and get my 800 *l.* again: And the same *J.* of his farther malice and envy had against the said *E.* afterwards, to wit, the same day, year and place last mentioned, speaking of the same *E.* and of his actions in his office aforesaid, these other false, feigned and scandalous words of the same *E.* in the presence and hearing of very many other faithful subjects of the said Lord the now King, openly and publicly spoke, asserted, related, uttered and published in these *English* words following, to wit, I (meaning him the said *J.*) have given Mr. *D.* (meaning him the said *E.*) six hundred pounds as a bribe: And the same *J.* of his farther malice and envy had against him the said *E.* afterwards, to wit, the

for words
spoken of a
surveyor of
the navy.

Letters pa-
tent.

The salary.

Defendant
employed in
building a
dry dock.

The words.

By reason
whereof the
plaintiff lost
his place.

the same day, year and place last mentioned, speaking of the same *E.* and of his actions in his office aforesaid, these other false, feigned and scandalous words following, in the presence and hearing of very many other faithful subjects of the said Lord the now King, openly and publickly spoke, asserted, related, uttered and published in these *English* words following, to wit, I (meaning him the said *J.*) have given Mr. *Dummer* (meaning the said *E.*) money at several times as bribes, and I (meaning him the said *J.*) will prove the sums and times when; by reason of the speaking, uttering and publishing of which said false and scandalous words, he the said *E.* is not only greatly hurt in his good name, credit and reputation, but also the same *E.* by reason thereof afterwards, to wit, the 18th day of *October* in the 10th year of the said Lord the now King, at *Westminster* aforesaid in the county aforesaid, of and from his said office was altogether deprived and removed, and the same totally lost: And the said *J.* of his farther malice and envy had against the said *E.* afterwards, to wit, the 11th day of *November* in the 10th year above-said, at *Westminster* aforesaid in the county aforesaid, certain other false, feigned and scandalous words of the same *E.* in the presence and hearing of very many other liege subjects of the said Lord the now King, openly and publickly spoke, uttered and pronounced in these *English* words following, to wit, I (meaning him the said *J.*) have given Mr. *Dummer* (meaning him the said *E.*) at several times 800 *l.* as bribes, and I (again meaning him the said *J.*) will prove the said sums were given him (again meaning him the said *E.*) and the times when; I (meaning him the said *J.*) have overcome the King, and now I (again meaning him the same *J.*) will fall upon that rascal *D.* (meaning the said *Edward*) and get my 800 *l.* again: And the same *J.* of his farther malice and envy had against the said *E.* to wit, the same day, year and place last mentioned, these other false, feigned and scandalous words of the same *E.* in the presence and hearing of very many other faithful subjects of the said Lord the now King, openly and publickly spoke, asserted, related, uttered and published in these *English* words following, to wit, I (meaning him the said *J.*) have given Mr. *D.* (meaning him the said *E.*) 600 *l.* as a bribe: And the same *J.* of his farther malice and envy had against him the said *E.* afterwards, to wit, the same day, year and place last mentioned, these other false, feigned and scandalous words of the same *E.* in the presence and hearing of very many other faithful subjects of the said Lord the now King, openly and publickly spoke, asserted, related, uttered and published in these *English* words following, to wit, I (meaning him the said *J.*) have given Mr. *D.* (meaning him the said *E.*) money at several times as bribes, and I (again meaning him the said *J.*) will prove the sums and times when: By reason of the speaking and publishing of which said last mentioned false and scandalous words, the same *E.* in his good name, credit and reputation is greatly hurt and damnified; whereby the said *E.* says that he is prejudiced, and hath damage to the value of 5000 *l.* And therefore he produces the suit, &c.

Issue Not guilty.

In this case the plaintiff recovered a verdict for 300 *l.* whereupon a writ of error was brought in the Exchequer Chamber, and the judgment affirmed.

Hawbank and Trim.

Case for not
putting out of
a buoy to the
defendant's
ship, whereby
the plaintiff's
ship split upon
her anchor.
M. 10 W. 3.

Midd, to wit. *George Hawbank* complains of *Matthew Trim* in the custody of the marshal, &c. for this, to wit, that whereas the said *George* on the 23d day of *September* in the year of the Lord 1697, at the parish of *Stebunbeatb*, otherwise *Stepney* in the county aforesaid, was and yet is master of a ship called the *Herring*, being then in the river of *Thames* in the parish and county aforesaid, the said river then being a navigable river, and the King's common highway; which said ship was then and there moored ashore in the parish and county aforesaid: And whereas the said *Matthew* the same day and year, and before, was and yet is master of a ship called the *Robert* and *Samuel*, then and there being in the river aforesaid near the said ship of him the said *George*, the said *Matthew*, contriving and maliciously intending greatly to hurt and prejudice him the said *George*, a certain anchor out of the ship aforesaid called the *Robert* and *Samuel*, and to the same ship with a rope fixed, into the said river then and there threw, and in the river aforesaid for the space of _____ hours then next continued, and did not affix a buoy to the said anchor to shew where the said anchor was put, by reason whereof the ship aforesaid, called the *Herring*, afterwards, to wit, the same day and year,

at

at the parish aforesaid in the county aforesaid, in the ebbing of the tide, for want of fixing a buoy to the anchor aforesaid in the said river *Tbames* in the parish and county aforesaid, fell upon the said anchor of him the said *Matthew*, whereby that ship falling upon the said anchor through the said neglect of him the said *Matthew*, and by reason thereof was so much broke that the said ship then and there sunk; and for this, to wit, that whereas by the custom of *England* from time immemorial used and approved, all masters of ships, whose ships are riding at anchor in any navigable river within this kingdom of *England*, used and for all the time aforesaid were accustomed and ought to fix a buoy to their anchors holding their ships, whereby other ships being in that river by such buoy might avoid such anchors, so that they might not be damaged thereby; and whereas the said *George* afterwards, to wit, on the 23d day of *September* in the year last aforesaid, at the parish of *Stebunbeatb*, otherwise *Stepney* aforesaid in the county aforesaid, was and yet is master of another ship, called the *Herring*, then being in the river *Tbames* in the parish and county aforesaid, which said ship was moored a-shore in the parish and county aforesaid: And whereas the said *Matthew* then and there was master of a certain other ship, called *The Robert and Samuel*, riding at anchor in the said river *Tbames* in the parish and county aforesaid, near unto the said last mentioned ship of him the said *George*: Nevertheless the said *Matthew* contriving and intending greatly to hurt and prejudice him the said *George* a certain anchor out of the said ship, called *The Robert and Samuel*, and to the same ship with a rope fixed, into the said river then and there threw, and in the said river there for the space of twenty hours then next following continued, and did not affix a buoy to the said anchor of his last mentioned ship, to shew where the said anchor of the last mentioned ship of him the said *Matthew* was placed, by reason whereof the last mentioned ship of him the said *George* afterwards, to wit, the same day and year aforesaid, at the parish aforesaid in the county aforesaid, in the ebbing of the tide, for want of fixing a buoy to the anchor aforesaid of the last mentioned ship of him the said *Matthew* then being in the said river *Tbames* in the parish and county aforesaid, fell upon the anchor of him the said *Matthew* last mentioned so as aforesaid placed in the said river *Tbames* in the parish and county aforesaid, whereby the said ship of him the said *George* last mentioned loaden with sea-coals falling upon the anchor of him the said *Matthew* last mentioned, through the neglect of him the said *Matthew*, was so much broke that the said ship of him the said *George* last mentioned then and there sunk, whereby the same *George* says that he is prejudiced, and hath damage to the value of 200 *l.* And therefore he produces the suit, &c.

The custom.

Continuing of it without a buoy.

Rosewell against Pryor.

Hill. 9 W. 3. Roll 362.

Midd, to wit. **N**athaniel *Rosewell* complains of *Samuel Pryor* and *Richard Avery* in the custody of the marshal, &c. for this, that whereas the said *Nathaniel*, on the first day of *June* in the ninth year of the reign of the Lord *William* the Third, now King of *England*, &c. and continually from thence hitherto was possessed and yet is possessed of and in a messuage situate and being in the parish of *St. Martin in the Fields* in the county of *Middlesex* aforesaid, for a term of divers years then and yet to come and unexpired, and of twenty-one windows in and upon part of the south side, and of eight windows in and upon part of the east side of the said messuage, in and through which said windows light into the said messuage, on the said first day of *June* in the ninth year aforesaid, was let and was accustomed to be let, and then and yet ought to be let for the enlightening of his said house, they the said *Samuel* and *Richard* not ignorant of the premisses, but maliciously intending and contriving to deprive him the said *Nathaniel* of the use and benefit of the said several windows, afterwards, to wit, the said first day of *June* in the ninth year of the reign of the said Lord the now King, at the said parish of *St. Martin in the Fields* in the county aforesaid, a certain edifice so near the said windows in the said house of him the said *Nathaniel* built and erected, and from thence until the first day of *October* then next following continued, and thereby the said windows were stopped up and darkened, whereby the said *Nathaniel* was deprived of and lost the use and benefit of the said windows.

Case for stopping up of lights.

Note: It is not said ancient messuage, neither ancient windows.

And after verdict this was moved in arrest of judgment.

But by the whole court, it being after a verdict it shall be intended that it was given in evidence at the trial, that the house and windows were

Y

ancient. But *Wright*, Serjeant, and *Northy*, were of opinion, that the declaration would have been good upon a demurrer. *Salk.* 460, 714. *Mod. Cases* 416. *Pract. Reg.* 16, 29.

windows from the said 1st day of *June* in the 9th year above said until the said 1st day of *October* then next following; whereby the same *Nathaniel* says that he is prejudiced, and has damage to the value of 100*l.* And therefore he produces the suit, &c.

Not guilty pleaded, and verdict and judgment for the plaintiff.

Roswell against Pryor.

Trin. 11 W. 3.

Case for the continuance of the stopping up of lights.

To this count there was a demurrer, it not being said that the lights were antient lights.

To this count the defendant pleaded Not guilty; upon which issue the cause was tried in *Middlsex*, whereupon this rule was made, and the plaintiff had judgment; a writ of error was after brought in the *Exchequer Chamber*, and judgment affirmed there.

Midd, to wit. **N** *Nathaniel Roswell* complains of *Samuel Pryor* in the custody of the marshal, &c. for this, that whereas the said *Nathaniel* on the 2d of *October* in the 9th year of the reign of the Lord *William the Third*, now King of *England*, &c. and continually from thence hitherto was possessed and yet is possessed of and in one messuage situate and being in the parish of *St. Martin in the Fields* in the county aforesaid, for the term of divers years then and yet to come and unexpired, and of 21 windows in and upon part of the south side, and eight windows in and upon part of the east side of the said messuage, in and through which said windows light into the said messuage, before the erection and at the time of the erection of a certain edifice herein after mentioned, was of right let, and yet of right ought to be let, for the enlightening of his said house: Nevertheless the said *Samuel* not ignorant of the premisses, but maliciously intending and contriving to deprive the said *Nathaniel* of the use and benefit of the said several windows, afterwards, to wit, on the same second day of *October* in the ninth year of the reign of the said Lord the now King above said, and from the same second day of *October* in that year until the 20th day of *October* in the 10th year of the reign of the said Lord the now King, at the parish of *St. Martin in the Fields* in the county aforesaid, a certain edifice by him the said *Samuel* before, to wit, on the first day of *June* in the 9th year above said, to the nuisance of the said messuage then and yet of him the said *Nathaniel*, near the said windows of him the said *Nathaniel* there built and erected continued, and thereby the said windows from the same 2d day of *October* in the 9th year above said until the 20th day of *October* in the 10th year above said were stopped up and darkened, whereby the same *Nathaniel* was deprived of and lost the use and benefit of the said windows from the said second day of *October* in the 9th year above said until the said 20th day of *October* in the 10th year above said: And whereas also the said *Nathaniel*, on the said second day of *October* in the 9th year of the reign of the said Lord the now King above said, and continually from thence hitherto was possessed and yet is possessed of an antient house, situate and being in the parish of *St. Martin in the Fields* in the county aforesaid, for a term of divers years then and yet to come and unexpired, and of twenty-one antient windows in and upon part of the south side, and eight antient windows in and upon part of the east side of the said antient messuage, in and through which said windows light into the said antient messuage aforesaid, before the erection, and at the time of the erection of the other edifice herein after mentioned, was of right let, and yet of right ought to be let, for the enlightening of his said antient messuage last mentioned: Nevertheless the said *Samuel* not ignorant of the premisses, but maliciously intending and contriving to deprive the said *Nathaniel* of the use and benefit of the said several windows last mentioned, afterwards, to wit, on the same 2d day of *October* in the 9th year of the reign of the said Lord the now King above said, and from the said second day of *October* in that year until the twentieth day of *October* in the 10th year of the reign of the said Lord the now King above said, at the said parish of *St. Martin in the Fields* in the county aforesaid, a certain other edifice by the said *Samuel* before, to wit, on the first day of *June* in the 9th year above said, to the nuisance of the said antient messuage then and yet of him the said *Nathaniel*, near the said several last mentioned antient windows of him the said *Nathaniel* there built and erected did continue, and thereby the windows last aforesaid, from the same second day of *October* in the ninth year above said until the twentieth day of *October* in the 10th year above said, were stopped up and darkened, whereby the same *Nathaniel* was deprived of and lost the use and benefit of the said windows, from the said second day of *October* in the ninth year above said until the twentieth day of *October* in the tenth year above said; whereby the same *Nathaniel* says that he is prejudiced, and hath damage to the value of 40*l.* And therefore he produces the suit, &c.

Roswell

Rosewell and Pryor.

Midd^s, to wit. At the sittings held at Westminster in the great hall of pleas in the county of Middlesex, on Thursday the 29th day of June in the 11th year of the reign of the Lord William the Third, now King of England, &c. before John Holt, Knt. chief justice of the said Lord the King assigned to hold pleas before the King himself.

IT is order'd by the assent of the parties, their counsel and attornies, that the *posse* shall remain in the hands of the said chief justice until the same chief justice shall otherwise order; and that it be referred to the same chief justice to have his opinion, whether the action upon the issue joined between the said parties be maintainable in law against the defendant (the same defendant, during the whole time of the continuance of the erection of the edifice in the said action mentioned, not being occupier of that edifice) or not: And it is farther order'd by the assent aforesaid, that this order be made a rule of the same court of the said Lord the King before the King himself, if the same court shall think fit.

By the court.

Heath against Heath.

London, to wit. **G**ilbert Heath, executor with one Gilbert Heath now deceased of the *Assumpsit by* last will and testament of Joshua Heath his father deceased, complains *a co-executor* of Richard Heath in the custody of the marshal, &c. for this, to wit, that whereas the said *for goods sold by the testator.* Richard Heath on the first day of January in the first year of the reign of the Lord George, now King of Great Britain, &c. at London, to wit, in the parish of St. Mary le Bow in the ward of Cbeape, was indebted to the said Joshua Heath in his life-time in 20*l.* of lawful money of Great Britain, for divers goods, wares and merchandizes, by the said Joshua Heath in his life-time to the same Richard Heath and at his special instance and request before that time there sold and delivered; and the said Richard Heath being so therein indebted the same Richard Heath then and there in consideration thereof assumed upon himself, and to the said Joshua Heath in his life-time then and there faithfully promised, that he the same Richard Heath the said 20*l.* to the said Joshua Heath, when he should be thereto after required, would well and faithfully pay and content: And whereas also the said Joshua Heath in his life-time afterwards, to wit, the same day and year aforesaid, at London aforesaid in the parish and ward aforesaid, at the like special instance and request of the said Richard Heath had sold and delivered to the said Richard Heath divers other goods, wares and merchandizes; the same Richard Heath then and there faithfully promised, that he the said Richard Heath all such sums of money, as the said Joshua Heath for the goods, wares and merchandizes last mentioned, reasonably deserved to have, to the same Joshua Heath in his life-time, when he should be thereto after required, would well and faithfully pay and content: And the same Gilbert in fact says, that the said Joshua Heath in his life-time, for the goods, wares and merchandizes aforesaid last mentioned, reasonably deserved to have of the said Richard Heath other 20*l.* of like money aforesaid, and thereof he the said Richard Heath then and there had notice: Nevertheless the said Richard Heath his several promises and assumptions aforesaid in form aforesaid made not regarding, but contriving and fraudulently intending the said Joshua Heath in his life-time, and the said Gilbert after the death of the said Joshua, in this behalf craftily and subtilly to deceive and defraud, the said several sums of money, or any penny thereof, to the same Joshua Heath in his life-time, or to the said Gilbert after the death of the said Joshua Heath, hath not paid, or in any wise contented for the same, altho' to do it the said Richard Heath by the said Joshua Heath in his life-time was required, but the said Richard Heath hath hitherto altogether refused to pay them to the said Joshua Heath in his life-time, or to the said Gilbert Heath after the death of the said Joshua Heath, and doth yet altogether refuse to pay them to the same Gilbert, in delay of the faithful execution of the will aforesaid, and to the damage of the said Gilbert 30*l.* And therefore he produces the suit, &c. And the same Gilbert produces here in court the letters testamentary of the said Joshua Heath aforesaid, whereby it sufficiently appears to the court of the said Lord the now King here, that the said Gilbert is executor of the will aforesaid, and thereof hath the administration, &c.

Norton

Nurton against Paris.

Cafe by a
passenger a
gainst a car-
rier for da-
mages in over-
turning his
waggon,
whereby her
collar bone
was broke.

Midd', to wit. **A** *NNE Nurton* complains of *Humphry Paris* in the custody of the mar-
shal, &c. for this, to wit, that whereas the said *Humphry* on the first
day of *July* in the first year of the reign of the Lord *George*, now King of *Great Britain*,
&c. and for divers years then last past and ever since hitherto was and yet is a common
waggoner, to wit, between the city of *London* and the town of *Ailesbury* in the county of
Bucks: And whereas the said *Humphry* on the said first day of *July* in the year abovesaid,
and long before and after hitherto was used and accustomed to convey and carry by him-
self and his servants in a certain waggon of the said *Humphry* divers subjects of the said
Lord the King, for a reasonable salary to him in that behalf to be paid from and between
the city of *London* abovesaid, and the said town of *Ailesbury*: And whereas also she the same
Anne the day and year abovesaid, at *London* in the parish of *St. Sepulchre* in the ward of
Farringdon Without, at the special instance and request of the said *Humphry* enter'd into the
waggon abovesaid, to be conveyed and carried safely and securely from the city of *London*
abovesaid to the town of *Ailesbury* abovesaid for a reasonable salary by him the said *Humphry*
of the same *Anne* therefore to be had; and that the said *Humphry* the day and year above-
said, at *London* abovesaid, the said *Anne* to convey and carry from the city of *London* afore-
said to the town of *Ailesbury* abovesaid into the waggon abovesaid had and received: Never-
theless the said *Humphry* contriving and intending to deceive and defraud the said *Anne*,
did not convey or carry the said *Anne* from the city of *London* abovesaid to the town of
Ailesbury abovesaid, but the said waggon the day and year abovesaid did so negligently and
carelessly dispose, manage and drive, that the waggon abovesaid was overfet and overturned,
whereby the left collar bone of her the said *Anne* was broke, and the left shoulder bone of
the said *Anne* was put out of joint, and the left arm of the said *Anne* was bruised, bent and
maimed; whereby she says that she is prejudiced, and has damage to the value of 100*l*.
And therefore she produces the suit, &c.

Hurst and Hurst.

Cafe by an
executrix on
an account
stated by her
with defen-
dant for goods
sold by her
testator.

London, to wit. **A** *NNE Hurst*, widow, executrix of the last will and testament of *Isaac*
Hurst deceased, complains of *Dorothy Hurst*, widow, in the custody
of the marshal, &c. for this, to wit, that whereas one *William Hurst* now deceased, in his
life-time, to wit, on the fifth day of *December* in the year of the Lord 1697, at *London*, to
wit, in the parish of *St. Mary le Bow* in the ward of *Cheape*, made his last will and testa-
ment, and by the same will made and constituted one *John Hurst* executor of his said will,
and afterwards, to wit, the 6th day of *January* in the year of the Lord 1697 abovesaid,
at *London* abovesaid in the parish and ward abovesaid died: And whereas also after the death
of the said *William*, to wit, the 7th day of *January* in the year of the Lord 1697 abovesaid,
at *London* abovesaid in the parish and ward abovesaid, the same *John* took upon himself the
burden of the execution of the said will, and afterwards, to wit, the 21st day of *January*
in the year of the Lord 1701, at *London* abovesaid in the parish and ward abovesaid, made
his last will and testament, and by the same will made and constituted the said *Dorothy*
Hurst executrix of his said will, and afterwards, to wit, the same 21st day of *January* in
the year last abovesaid, at *London* abovesaid in the parish and ward abovesaid died: And
whereas also after the death of the said *John*, to wit, on the 22d day of *January* in the year
last abovesaid, at *London* abovesaid in the parish and ward abovesaid, the said *Dorothy* took upon
herself the burden of the execution of the will of the said *John*: And whereas also divers
goods and chattels which belonged to the said *William Hurst* at the time of his death, unad-
ministred by the said *John Hurst* in his life-time, sufficient to satisfy all the debts of the said
William by him in his life-time and at the time of his death due, and more, and also di-
vers other the proper goods and chattels of the said *John Hurst* at the time of his death,
sufficient to satisfy all the debts of him the said *John Hurst*, by him in his life-time due,
and more, after the death of the said *John*, to wit, on the 24th day of *January* last above-
said, at *London* abovesaid in the parish and ward abovesaid, to the hands and possession of the
said *Dorothy* came, and yet are in her hands unadministred: And whereas also the said *Do-*
rothy afterwards, to wit, on the 12th day of *June* in the year of the Lord 1702, at *London*
abovesaid in the parish and ward abovesaid, accounted with the same *Anne*, as well con-
cerning divers sums of money to the said *Isaac* by the said *William* in his life-time due,
and yet unpaid, for divers wares and merchandizes of the said *Isaac* in his life-time by
him

him the said *Isaac* to the said *William* in his life-time, and at his instance and request, then before sold and delivered, as concerning divers other sums of money to the said *Isaac* at the time of his death due from the said *John Hurst* in his life-time, and yet unpaid, for divers other wares and merchandizes of the said *Isaac* in his life-time, by the same *Isaac* to the said *John* in his life-time, and at his instance and request, then before sold and delivered; and upon that account the said *Dorothy* then and there was found in arrear to the said *Anne* in 13*l.* 6*s.* 7*d.* of lawful money of *England*; the said *Dorothy* in consideration thereof then and there, to wit, on the said 12th day of *June* in the year of the Lord 1702 above-said, at *London* afore-said in the parish and ward afore-said, assumed upon herself, and to the same *Anne* then and there faithfully promised, to pay to the same *Anne* the said 13*l.* 6*s.* 7*d.* when she should be thereto after required: And whereas also the said *Dorothy* afterwards, to wit, the same 12th day of *June* in the year of the Lord 1702 above-said, at *London* afore-said in the parish and ward afore-said, accounted with the said *Anne*, as well concerning divers other sums of money to the same *Isaac* from the said *William* in his life due, and yet unpaid, for diverse other wares and merchandizes of the said *Isaac* in his life-time, by the said *Isaac* in his life-time to the same *William* in his life-time, and at his instance and request, then before sold and delivered, as concerning divers other sums of money to the said *Isaac* at the time of his death due from the said *John Hurst* in his life-time, and yet unpaid, for divers other wares and merchandizes of the said *Isaac* in his life-time, by the said *Isaac* to the same *John* in his life-time, and at his instance and request, then before sold and delivered; and upon that account the said *Dorothy* then and there was found in arrear to the said *Anne* in 14*l.* of lawful money of *England*; the said *Dorothy* in consideration thereof then and there, to wit, the same 12th day of *June* last mentioned, at *London* afore-said in the parish and ward afore-said, assumed upon herself, and to the same *Anne* then and there faithfully promised, to pay to the same *Anne* the said 14*l.* when she should be thereto after required: Nevertheless the said *Dorothy* her promises and assumptions afore-said in form afore-said made not regarding, but contriving and fraudulently intending, the same *Anne* of the said several sums of money craftily and subtilly to deceive and defraud, the said 13*l.* 6*s.* 7*d.* or the said 14*l.* or any penny thereof, to the same *Anne* hath not yet paid, nor for the same hath hitherto any way contended, altho' to do it the said *Dorothy* afterwards, to wit, the first day of *August* in the year of the Lord 1702 above-said, at *London* afore-said in the parish and ward afore-said, by the said *Anne* was required, but hath altogether refused, and yet doth refuse to pay her the same, to the damage of the said *Anne* 14*l.* And therefore she produces the suit, &c. And the same *Anne* produces here in court the letters testamentary of the said *Isaac*, whereby it sufficiently appears to the court of the said Lady the now Queen here, that the said *Anne* is executrix of the will of the said *Isaac*, and hath the administration thereof, &c.

London, to wit. **J.** B. late of *London*, merchant, and *E. B.* late of the same, merchant, were attached to answer *R. D.* in a plea of trespass on the case, &c. And whereon the same *Richard* by *A. B.* his attorney complains, that whereas he the said *Richard* on the 4th day of *M.* in the year at *London* afore-said in the parish of *St. Peter le Poor* in the ward of *Broadstreet*, *London*, had paid 500*l.* by him before then subscribed in the third subscription to the governor and company of merchants of *Great Britain* trading to the *South-Seas* and other parts of *America*, and for the promoting of the fishery, &c. called the *South-Sea* company: And whereas also afterwards, to wit, the same day and year, at *London* afore-said in the parish and ward afore-said, it was agreed between the said *J.* and *E.* and the said *R.* that the said *R.* upon payment of 1550*l.* with interest after the rate of 5*l.* for the hundred by the year for the same from the day of that agreement, should deliver to the said *J.* and *E.* the said 500*l.* third subscription to the governor and company afore-said, and that the said *J.* and *E.* should pay to the said *R.* upon the delivery of the said 500*l.* third subscription, that sum of 1550*l.* of lawful money of *Great Britain*, with interest for the same after the rate of 5*l.* for the hundred by the year from the day of the said agreement, and that the said *J.* and *E.* should allow and pay all future calls upon the said 500*l.* subscription: And thereupon the same *J.* and *E.* afterwards, to wit, the 5th day of *July* in the year above-said, at *London* afore-said in the parish and ward afore-said, in consideration that the said *R.* then and there at the special instance and request of the said *J.* and *E.* had assumed upon himself, and to the same *J.* and *E.* then and there faithfully promised, to perform every thing in the said agreement contained on the part of the said *R.* to be performed, assumed upon themselves, and to the said *R.* then and there faithfully promised, that they the same

Case on a special contract to deliver 500*l.* third subscription to the *South-Sea* company, where part of the contract money was paid afterwards.

J. and *E.* the agreement aforesaid, in all things on their parts to be performed, would well and faithfully perform: And the said *R.* in fact says, that afterwards, to wit, on the 10th day of *April* in the year of the Lord 1721, at *London* aforesaid in the parish and ward aforesaid, he the said *R.* delivered to the said *J.* and *E.* the said 500*l.* third subscription aforesaid: Nevertheless the said *J.* and *E.* not regarding their promise and assumption aforesaid, but contriving and fraudulently intending craftily and subtilly to deceive and defraud the said *R.* in this behalf, have not paid or caused to be paid, nor hath either of them paid or caused to be paid, the said sum of 1550*l.* with such interest for the same as is aforesaid, nor any penny thereof, according to the form and effect of the agreement aforesaid, altho' to do it they the said *J.* and *E.* were afterwards, to wit, the same day and year, at *London* aforesaid in the parish and ward aforesaid, and often after, by the said *R.* required, but have altogether refused, and yet do refuse to pay him, or cause him to paid the same: And whereas also afterwards, to wit, the fifth day of *July* in the year last aforesaid, at *London* aforesaid in the parish and ward aforesaid, the said *R.* at the like instance and request of the said *J.* and *E.* had bargained and sold to the said *J.* and *E.* other 500*l.* third subscription to the company aforesaid for 1500*l.* of like lawful money, with interest for the same from the day of the bargain and sale thereof, payable after the rate of 5*l.* for the hundred by the year; in consideration thereof, and in consideration that the said *Richard* had taken upon himself and faithfully promised the said *J.* and *E.* to deliver to them the said *J.* and *E.* the said 500*l.* third subscription to the said company, they the same *J.* and *E.* afterwards, to wit, the same day and year last aforesaid, at *London* aforesaid in the parish and ward aforesaid, assumed upon themselves, and then and there faithfully promised the said *R.* that they the same *J.* and *E.* would pay to the said *Richard* the said other sum of 1500*l.* with interest for the same from the said day of the bargain and sale thereof, upon his delivering to them the said other 500*l.* third subscription to the said company: And the said *Richard* in fact says, that afterwards, to wit, on the 26th day of *M.* in the year of the Lord 1721 aforesaid, at *London* aforesaid in the parish and ward aforesaid, he the said *R.* delivered to the said *J.* and *E.* the said last mentioned 500*l.* third subscription to the said company: Nevertheless the said *J.* and *E.* have not paid or caused to be paid, nor hath either of them paid or caused to be paid, the said sum of 1500*l.* with such interest for the same as is aforesaid, nor any penny thereof, altho' to do it they the said *J.* and *E.* were afterwards, to wit, the same day and year last aforesaid, at *London* aforesaid in the parish and ward aforesaid, and often after, by the said *R.* required, but have altogether refused, and yet do refuse to pay him, or cause him to be paid the same: And whereas also the said *J.* and *E.* afterwards, to wit, on the fifth day of *July* in the year of the Lord 1721, at *London* aforesaid in the parish and ward aforesaid, in consideration that the said *R.* at their like special instance and request had sold to them the said *J.* and *E.* other 500*l.* by him the said *R.* subscribed in the third subscription to the said company, and in consideration that the said *R.* had assumed upon himself, and faithfully promised the said *J.* and *E.* to deliver to them the said *J.* and *E.* the said last mentioned 500*l.* subscription, assumed upon themselves, and then and there faithfully promised the said *R.* that they the said *J.* and *E.* would well and faithfully content and pay the said *R.* another sum of 1500*l.* of like lawful money, with interest for the same from the day of the sale, upon his delivery of the 500*l.* subscription last mentioned: And the said *R.* in fact saith, that at a general court of the said company held on the 18th day of *M.* in the 7th year of the reign of the Lord the now King, it was ordered, that stock of the governor and company aforesaid should be immediately given for payment on the third subscription aforesaid after the rate of 400*l.* by the hundred for every 100*l.* thereof, with the *Midsummer* dividend of 10*l.* by the hundred for every 100*l.* thereof in the stock of the same company, whereof the said *J.* and *E.* afterwards, to wit, the same day and year, at *London* aforesaid in the parish and ward aforesaid had notice: And the said *R.* farther in fact saith, that afterwards, to wit, on the 27th day of *A.* in the 7th year of the reign of the now King aforesaid, at *London* aforesaid in the parish and ward aforesaid, at the *South-Sea* house being in the parish and ward aforesaid, from 10 o'clock till 12 o'clock of the same day (the same *J.* and *E.* having notice by the said *R.* then before given, that they should be present at the place and time aforesaid to claim and receive the stock for the said last mentioned 500*l.* third subscription to the governor and company aforesaid allowed) he the said *R.* continually there remained, and for all the said time was there ready, and offered to deliver to them the said *J.* and *E.* the said last mentioned 500*l.* by him the said *R.* subscribed in the third subscription aforesaid, and to transfer to the same *J.* and *E.* all such stock and other benefit as by the governor and company aforesaid was or should be given or allowed for the said last mentioned 500*l.* in the third subscription by him the said *R.* subscribed as aforesaid, that they the said *J.* and *E.* then and there might claim and have the said last mentioned 500*l.* subscription: Nevertheless the said *J.* and *E.* then and

Breach.

1550*l.*

Laid another way.

Breach.

Laid another way.

Averment.

Breach.

and there did not come, nor did either of them, or any other person for them or either of them, then and there come to receive or claim the said last mentioned 500*l.* third subscription, or to accept the stock or other benefit which was or should be given or allowed by the governor and company aforesaid for the said 500*l.* the money paid by the said *R.* in the 3d subscription aforesaid, but the said *J.* and *E.* have altogether refused to accept the said last mentioned 500*l.* in the third subscription aforesaid, or such stock and other benefit as should be given or allowed for the same by the governor and company aforesaid; yet the said *J.* and *E.* or either of them, at that time or at any other time hitherto have not paid or caused to be paid, nor hath either of them paid or caused to be paid, the said 500*l.* last mentioned, or any penny thereof, although they the said *J.* and *E.* afterwards, to wit, the same day and year, at *London* aforesaid in the parish and ward aforesaid, and often after were requested to do it by him the said *R.* but they the said *J.* and *E.* have altogether denied, and yet do deny to pay him or cause him to be paid the same, to the damage of the said *Richard* 1600. And therefore he produces the suit, &c.

Mason and Slipper.

Norfolk, to wit. **R** *Richard Mason* late of *Netton* in the county aforesaid, Esq; was attached to answer to *Samuel Slipper*, clerk, in a plea of trespass on the case, &c. And whereon the said *Samuel* by *William Belts* his attorney complains, why whereas *George Oxenden*, Doctor of laws, of the court of *Canterbury* of the *Arches London* official principal lawfully constituted, in a certain cause of appeal and complaint, which before him in judgment between the said *Slipper* the party appealing and complaining and one *William Dade* the party appellee and respondent, in a certain cause ecclesiastical and of spiritual jurisdiction, to wit, for substruction and non-payment of tithes in the same court, to wit, at *London* in the parish of *St. Mary le Bow* in the ward of *Cheape*, lately depending, rightfully and lawfully proceeding, the same *William Dade* for his manifest contumacy and contempt in not paying the sum of 4*l.* 12*s.* 2*d.* of lawful money of *England* for tithes or the principal, and the sum of 17*l.* of like money of *England* for the expences of suit as well in the first as the last suit, amounting in the whole to the sum of 21*l.* 12*s.* 2*d.* to the said *Samuel Slipper* or his proctor within a competent time in that behalf lawfully assigned, altho' thrice admonished and long and sufficiently waited for, and in no wise regarding to pay the respective sums, pronounced contumacious, and for the punishment of such his contumacy decreed him to be excommunicated, and caused and commanded him in the face of the Church, the order of the law being in that behalf first observed, openly and publickly to be declared excommunicated as such: Which said premisses *Thomas* by divine providence Archbishop of *Canterbury*, primate and metropolitan of all *England*, afterwards, to wit, the 2d day of *October* in the year of the Lord 1697, under the seal of the same court to the said Lord the now King in his Chancery then at *Westminster* in the county of *Middlesex* signified; and thereupon it was in such manner proceeded, that afterwards, to wit, on the 26th day of *October* in the 9th year of the reign of the Lord the now King, a certain writ of the said Lord the King of *Excommunicato capiendo* issued out of the court of Chancery aforesaid at *Westminster* aforesaid against the same *William*, directed to the then sheriff of the county of *Norfolk* aforesaid, by which said writ the said then sheriff was commanded that he should take the said *William Dade* by his body, according to the custom of *England*, until he should satisfy the Holy Church, as well for the contempt as for the injury by him done her; and that the said sheriff should make known to the said Lord the King in the Octave of *St. Hillary* then next following, wheresoever the said Lord the King should then be in *England*, how he had executed that writ; and farther, that he should cause to be done in the premisses as of right, and according to the form of the statute in that case lately made and provided, ought to be done, and that he should no way omit; and should have there that writ: Which said writ afterwards, and before the said Octave of *St. Hillary*, to wit, in *Michaelmas* term in the ninth year aforesaid, was allowed among the pleas of the King inrolled and delivered of record to the same *Richard* (the said *Richard* being then sheriff of the county of *Norfolk* aforesaid) before the Lord the King at *Westminster* aforesaid, according to the form of the statute in such case lately made and provided; by virtue of which said writ the same *Richard Mason* afterwards, and before the return thereof, to wit, on the first day of *December* in the 9th year aforesaid, at *Catton* in the said county of *Norfolk*, (the same *Richard* then being sheriff of the county of *Norfolk* aforesaid) the same *William* by his body took and arrested, and him in his custody there had and detained for the cause aforesaid, until the same *Richard Mason* contriving and fraudulently intending to deprive the said *Samuel* of his remedy aforesaid by reason of that imprisonment for the obtaining the sum of money aforesaid, afterwards, to wit, on the 1st day of *January*

Cause against the sheriff for an escape on an Excommunicato capiendo.

5 El. c. 23.

January in the 9th year above said, the said *William* at *Caston* afore said (the same *Richard* being then and there sheriff of the county afore said) without any authority whatever, and without the Licence and against the will of the said *Samuel* or any bishop or archbishop, and without any bail whatever given by the said *William* to obey the commands of the Church in form of law, permitted to go at large and escape where he would, (the same *Samuel* being then and yet not paid the several sums afore said, or any part thereof;) and the said *William* hath ever since elained himself to places altogether unknown to the said *Samuel*; and by reason of the premisses the said *Samuel* is wholly defrauded of all remedy for obtaining the said sums of money, to the damage of the said *Samuel* 50*l.* And therefore he produces the suit, &c.

Pleas before the Lady the now Queen in her Chancery at Westminster in the county of Middlesex, in Michaelmas Term in the eighth year of the reign of the Lady Anne, by the grace of God of Great Britain, France and Ireland Queen, defender of the faith, &c.

The entry of the issue and nisi prius record in Assumpsit against a curstior, brought in the petty-bag office for goods sold and joyner's work.

Impar lance.

Did not assume.

Venire awarded.

Day given to the parties in K. B.

London, to wit. **R** *Ichard Tirrell* by *William Smith*, Esq; his attorney complains against *James Sedgewick*, Esq; one of the curstiors of the court of Chancery of the said Lady the now Queen, present here in court in his proper person, for this, to wit, that whereas the said *James* on the 17th day of *October* in the eighth year of the reign of the Lady *Anne* now Queen of *Great Britain*, &c. afore said, at *London* afore said, to wit, in the parish of *St. Mary le Bow* in the ward of *Cheape*, was indebted to the said *Richard* in 35*l.* of lawful money of *Great Britain*, as well for divers goods, wares and merchandizes of the said *Richard*, by him the said *Richard*, at the special instance and request of the said *James*, to the said *James* before that time sold and delivered, as for joyner's work by him the said *Richard* for the said *James*, at the like special instance and request of the said *James*, before that time done and performed; and being so therein indebted the same *James* afterwards, to wit, the same day and year, at *London* afore said in the parish and ward afore said, in consideration thereof assumed upon himself, and to the same *Richard* then and there faithfully promised, that he the said *James* the said 35*l.* to the same *Richard*, when he should be thereto after required, would well and faithfully pay and content: And whereas also the said *James* the same 17th day of *October* in the 8th year above said, at *London* afore said in the parish and ward afore said, in consideration that the said *Richard*, at the like special instance and request of the said *James*, had sold and delivered to the said *James* divers other goods, wares and merchandizes of the said *Richard*, and had done and performed other joyner's work for the same *James* before that time, assumed upon himself, and to the same *Richard* then and there faithfully promised, that he the said *James* so much money of like lawful money of *Great Britain*, as he the same *Richard* reasonably deserved to have for the same, to the same *Richard*, when he should be thereto after required, would well and faithfully content and pay: And the same *Richard* in fact says, that he the said *Richard* reasonably deserved to have for the same other 35*l.* of like lawful money, whereof the said *James* afterwards, to wit, the same day and year above said, at *London* afore said in the parish and ward afore said, had notice: Nevertheless the said, &c. hath wholly refused and yet doth refuse, to the damage of the said *Richard* 100*l.* And therefore he prays remedy, &c. Pledges to prosecute *John Doe* and *Richard Roe*. Whereupon day is given by the court here to the said *James* until *Monday* next after a month of *St. Michael* in this same term to make his answer to the said bill of him the said *Richard*: The same day is given to the said *Richard* here, &c. At which day before the said Lady the now Queen in her said Chancery, to wit, at *Westminster* afore said, comes as well the said *Richard* by his attorney afore said, as the said *James* in his proper person; and the said *Richard* prays that the said *James* may answer to his bill afore said: And the said *James* in his proper person comes and defends the force and injury when, &c. and says that he did not assume upon himself in manner and form as the said *Richard* above against him complains: And of this he puts himself upon the country: And the said *Richard* thereof likewise, &c. And thereupon the said *Richard* prays a writ of the said Lady the now Queen of *venire facias* to the sheriffs of *London* afore said to be directed, to try the issue afore said between the parties afore said in form afore said joined: And it is granted to him by the same court here, &c. The same day is given to the parties afore said before the said Lady the now Queen until *Monday* next after the *Octave* of *St. Hilary* next coming, where ever she shall then be in in *England*, to do and receive what shall be just in the premisses: And the sheriffs of *London* afore said are commanded that they

cause

cause to come before the same Lady the now Queen at that day twelve free and lawful men of the city of *London* aforesaid, each of whom hath 10*l.* of lands, tenements or rent, by the year at least, by whom the truth of the fact may the better be known, and who are neither of affinity to the said *Richard* nor to the said *James*, to recognize on their oaths more fully the truth of and concerning the premisses.

Pleas before the Lady the Queen at Westminster of Hillary term in the 8th year of the reign of the Lady Anne, now Queen of Great Britain, &c.

Midd., to wit. **B**E it remember'd that *William Cowper*, Baron of *Wingham*, Lord Chan- The *nisi* prin
cellor of *Great Britain*, on *Monday* next after the *Octave* of *St. Hillary* record.

this same term before the Lady the Queen at *Westminster*, by his own proper hands delivered here into court a certain record had before the said Lady the now Queen in her Chancery at *Westminster* in the county of *Middlesex*, in these words: Pleas before the Lady the now Queen in her Chancery at *Westminster* in the county of *Middlesex* in *Michaelmas* term in the 8th year of the reign of the Lady *Anne*, by the grace of God of *Great Britain, France* and *Ireland* Queen, defender of the faith, &c. *London*, to wit, *Richard Tirrel* by *William Smith*, Esq; his attorney complains against *James Sedgewick*, Esq; one of the curstors of the said Lady the now Queen, present here in court in his proper person, for this, to wit, *And so recite the issue in the petty-bag office*; and who are neither of affinity to the said *Richard* nor to the said *James*, to recognize on their oaths more fully the truth of and concerning the premisses: At which day before the Lady the Queen at *Westminster* comes as well the said *Richard Tirrel* by *Shaw* his attorney, as the said *Richard Sedgewick* in his proper person: And the sheriffs of *London* aforesaid, to wit, *Richard Hoare*, Knt. and *Thomas Dunk*, Esq; return the writ of the Lady the Queen of *venire facias* to them in form aforesaid directed in all things served and executed, together with a panel of the names of the jurors to the same writ annexed, of whom none, &c. Therefore the sheriffs of *London* aforesaid are commanded, that they distrain the jurors aforesaid by all their lands, &c. And that of the issues, &c. so that they may have their bodies before the Lady the Queen at *Westminster* on *Monday* next after the *Octave* of the Purification of the blessed *Mary*, or before *John Powell*, Knt. one of the justices of the Lady the Queen assigned to hold pleas in the court of the said Lady the Queen before the Queen herself, if he shall before come, on *Saturday* next after the Purification of the blessed *Mary*, at *Guildhall, London*, by the form of the statute, &c. for want of jurors, &c. Therefore let the sheriffs have their bodies, &c. The same day is given to the parties aforesaid there, &c. Afterwards the day and year within contained, before *John Powell*, Knt. one of the justices of the Lady the Queen, within written, *John Ince*, Gent. being associated to him by the form of the statute, &c. comes the within named *Richard Tirrel* by his attorney within contained, and the within written *James Sedgewick*, altho' at the same day solemnly called, comes not, but makes default; therefore the jury within mentioned is taken against him by default; whereupon the jurors of that jury being called, some of them, to wit, *Thomas Salter*, *Thomas Watson*, *T. W. A. B.* and *J. C.* come, and on that jury are sworn: And because the residue of the jurors of that jury do not appear, therefore others from the by-standers, by the sheriffs aforesaid to this elected, at the request of the said *Richard*, and by the command of the justice aforesaid, are added anew, whose names to the panel within written are affiled according to the form of the statute in such case made and provided: And the jurors so added anew, to wit, *T. S. G. F. J. B. R. R. W. B. J. L.* and *G. C.* being called likewise come, who to say the truth of the within contained, together with the other jurors aforesaid before impanelled and sworn, being elected, tried and sworn, say upon their oaths, that the within named *James Sedgewick* did assume upon himself in manner and form as the said *Richard Tirrel* within complains against him; and they assess the damages of the said *Richard Tirrel* by reason of the premisses within written, beside his costs and charges by him about his suit in this behalf laid out, to 34*l.* 10*s.* 11*d.* and for those costs and charges to 53*s.* 4*d.* Therefore, &c.

13 E. 1. c. 30.

12 E. 2. 4.

14 E. 3. c. 16.

The *postea*.

Verdict for the plaintiff.

18 Feb. 1709.

For costs of increase 11*l.* 5*s.* 9*d.*
Damages in the whole 48*l.* 10*s.*

A 2

Anno

The venire. *Anne* by the grace of God of *Great Britain, France and Ireland* Queen, defender of the faith, &c. To the sheriffs of *London*, greeting: We command you that you cause to come before us in our court on *Monday* next after the Octave of *St. Hillary* next coming, wherever we shall then be in *England*, twelve free and lawful men of the city of *London* aforesaid, each of whom has 10 *l.* of lands, tenements or rent, by the year at least, by whom the truth of the fact may be the better known, and who are neither of affinity to *Richard Tirrel* nor to *James Sedgewick*, Esq; one of the cursitors of our court of Chancery, to make a certain jury of the country between the parties aforesaid in a plea of trespass on the case, because as well the said *James* as the said *Richard*, between whom therein is a dispute, have put themselves on that jury: And have there the names of the jurors and this writ. *Witness* ourself at *Westminster* 29th day of *November* in the 8th year of our reign.

Trever Bauling.

The return.

The execution of this writ appears in the panel annexed.

The answer of { *Richard Hoare*, Knt.
and
Thomas Dunk, Esq; } sheriffs.

Jurors between *Richard Tirrell* and *James Sedgewick*, Esq; one of the cursitors of the court of Chancery, &c. in a plea of trespass on the case.

A. B. of, &c.

C. D. of, &c. and so the rest of the panel to
And *John Watson*.

Each of the jurors aforesaid by himself is summoned.

By { *John Doe*
and
Richard Roe.

The distringas.

Anne by the grace of God of *Great Britain, France and Ireland* Queen, defender of the faith, &c. To the sheriffs of *London*, greeting: We command you that you distrain *T. S. J. W.* &c. the jurors summoned between *Richard Tirrel* plaintiff and *James Sedgewick*, Esq; one of the cursitors of our court of Chancery, by all their lands and chattels in your bailiwick, so that neither they nor any for them lay hands on them until you shall have therein other command from us, and that you answer to us for the issues of the same, so that you may have their bodies before us at *Westminster* on *Monday* next after the Octave of the Purification of the blessed *Mary*, or before our trusty and well beloved *John Powell*, Kt. one of our justices assigned to hold pleas before us, if first he shall before come on *Saturday* next after the Octave of the Purification of the blessed *Mary*, at *Guildhall, London*, by the form of the statute in such case thereof made and provided, to make a certain jury between the parties aforesaid in a plea of trespass on the case, and to hear their judgment therein for their former default: And have there then the names of the jurors and this writ. *Witness* *J. Holt*, at *Westminster* 23d day of *January* in the 8th year of our reign.

Warton, Knt. and Careiron and another.

An original writ out of Chancery in an action on the case by an assignee against the acceptor of an outland bill of exchange payable at two usances and a half.

Midd, to wit. *ANNE*, &c. To the sheriffs of *London*, greeting: If *Michael Warton*, Kt. shall give you security to prosecute his suit, then put by bail and safe pledges *David Careiron* late of *London*, merchant, and *D. M.* late of *London*, merchant, that they may be before us from the day of *St. Michael* in one month, wheresoever we shall then be in *England*, to shew why whereas one *Alexander Crommeline*, being a merchant and a person using trade, on the 18th day of *July* in the new stile, being the 7th day of the same month of *July* in the *English* stile in the year of the Lord 1702, at *Hambourgh* in parts beyond the seas, to wit, at *London* aforesaid in the parish of *St. Mary le Bow* in the ward of *Cheape*, made according to the use and custom of merchants a certain bill of exchange subscribed with his own hand, and directed it to the before mentioned *David* and *David* at *London* aforesaid; by which said bill of exchange the same *Alexander* required the same *David* and *David*, at two usances and an half, to pay upon that his first exchange to the order of one *Lewis Mangin* the sum of 100 *l.* sterling, value received of the said *Lewis*, and to place it to account according to advice; which said bill of exchange afterwards, and before the end of two usances and an half, to wit, on the 18th day of *July* in the *English* stile in the first year of our reign, at *London* aforesaid in the parish and ward aforesaid, was shewn to the same *David* and *David* for acceptance thereof, and the same *David* and *Da-*

vid that bill of exchange then and there according to the use and custom of merchants accepted; and afterwards, to wit, the 19th day of *July* in the year last mentioned, at the parish and ward aforesaid, the said *Lewis Mangin*, by indorsement on that bill of exchange made according to the use and custom of merchants, ordered the said sum of 100*l.* to be paid to one *Philip Wilkinson*, the elder, of *Hull*, or order; and afterwards, to wit, the same day and year last mentioned, at the parish and ward aforesaid, the same *Philip*, by another indorsement upon the same bill of exchange made according to the use and custom of merchants, ordered the said sum of 100*l.* to be paid to the order of the said *Michael*, value received of Mr. *Robert Cook*; of which said indorsements the said *David* and *David* afterwards, to wit, the day, year and place last mentioned, had notice, where- by, according to the use and custom of merchants, the said *David* and *David* became chargeable and bound to pay the said sum of 100*l.* to the said *Michael*, according to the tenor of the bill of exchange aforesaid; and so being chargeable and bound, the same *David* and *David* in consideration of the premisses afterwards, to wit, the same day and year last mentioned, at the parish and ward aforesaid, assumed upon themselves, and to the same *Michael* then and there faithfully promised, that the said *David* and *David* would content and pay the same *Michael* the said sum according to the tenor of the said bill of exchange: And the said *Michael* in fact says, that according to the use of mer- chants, an usance in a bill of exchange among merchants from *Hambourgh* and *London* aforesaid contains in it a month from the date of such bill and no more, and that a half usance contains in it fifteen days and no more, to wit, at the parish and ward aforesaid: Nevertheless the said *David* and *David* not regarding their promise and assumption afore- said in form aforesaid made, but contriving and fraudulently intending the same *Michael* in this behalf craftily and subtilly to deceive and defraud, the said sum of 100*l.* or any part thereof to the said *Michael* at the end of two usances and an half next after the making of the said bill of exchange, or of the acceptance of the same bill, or at any other time hitherto, have not paid, nor hath either of them paid, but have altogether refused and yet do refuse to pay him the same, to the damage of the said *Michael* 130*l.* as he says: And have ye there the names of the pledges, and this writ. Witness ourself at *Westminster* the eighth day of *October* in the first year of our reign.

Indorsed.

Another in-
dorsement to
plaintiff.

Notice.

Averment of
uses between
merchants at
Hambourgh
and *London*.

Breach.

Atel.

Aiel.

Clitheroe and Francklyn.

Pleas of land inrolled at Westminster before Henry Pollexfen, Knt. and his companions, justices of the Lord and Lady the King and Queen of the Bench, of Michaelmas term in the first year of the reign of the Lord and Lady William and Mary now King and Queen of England, &c.

Booth 200.
Salk. 568.
Pract. Reg.
172.
Count on the writ of aiel.

The fee descended.

Tenant appears and pleads seisin in fee.

Fine levied.

Uses of the fine.

27 H. 8. c. 10.
Seisin for life.

Otherwise as it appears in *Easter* term last past in the Roll 171, it is containtd thus: *Midd'*, to wit, *Henry Clitheroe*, Esq; by R. G. his attorney demands against *Thomas Francklyn*, Esq; and *Mary* his wife, two messuages, forty acres of land, fifteen acres of meadow and forty acres of pasture, in *Harrow on the Hill*, of which *Christopher Clitheroe*, Knt. grandfather of the said *Henry*, whose heir he is, was seised in his demesne as of fee on the day in which he died, &c. and whereon he says, that the said *Christopher* the grandfather, &c. was seised of the tenements aforesaid in his demesne as of fee and right in the time of peace, in the time of the Lord *Charles* the First, late King of *England*, by taking the profits thereof to the value, &c. and of such estate so thereof died seised, &c. and from him the said *Christopher* descended the fee, &c. to one *Henry Clitheroe* as son and heir of the said *Christopher*, and from the said *Henry* descended the fee, &c. to this *Henry* who now demands as son and heir of the said *Henry* son of the said *Christopher*, and of which, &c. And therefore he produces the suit, &c.

And the said *Thomas* and *Mary* by *Samuel Corbet* their attorney come and say they cannot render the tenements aforesaid, with the appurtenances, to the before named *Henry*, because they say, that long before the said *Christopher* had any thing in the tenements aforesaid, with the appurtenances, one *Bryan Edlin*, Gent. was seised of and in the tenements aforesaid, with the appurtenances, in his demesne as of fee, and he so thereof being seised, a certain fine was levied in the court of the Lord *James* the First, late King of *England*, to wit, in the Octave of the blessed *Mary* in the year of the reign of the said King *James* the First of *England*, *France* and *Ireland*, the seventh, and of *Scotland* the forty-third, before *Edward Coke*, *Thomas Walmsly*, *Peter Warburton*, *William Daniel* and *Thomas Foster*, the justices and other faithful subjects of the said late King then there present, between the said *Christopher*, by the name of *Christopher Clitheroe*, plaintiff, and the before named *Brian* and *Margaret* then his wife, deforceants of the tenements aforesaid, with the appurtenances, by the name of one messuage, four cottages, five barns, four gardens, four orchards, thirty-four acres of land, ten acres of meadow, thirty acres of pasture and six acres of wood, with the appurtenances in *Pynnor*, whereof a plea of covenant was summoned between them in the same court, to wit, that the said *Brian* and *Margaret* acknowledged the said tenements, with the appurtenances, to be the right of the said *Christopher*, as that which he had of the gift of the said *Brian* and *Margaret*; and that they released and quitted claim from them the said *Brian* and *Margaret* and their heirs to the said *Christopher* and his heirs for ever: And farther the same *Brian* and *Margaret* granted for themselves and the heirs of the said *Brian*, that they would warrant to the said *Christopher* and his heirs the said tenements, with the appurtenances, against the said *Brian* and *Margaret* and the heirs of the said *Brian* for ever: Which said fine so had and levied was had and levied to the use of the said *Christopher* and *Mary* his then wife for the term of their lives and the life of the longer liver of them; and from and after their decease, to the use of the heirs male of the body of the said *Christopher*, on the body of the said *Mary* begotten or to be begotten; and for want of such issue, then to the use of the right heirs of the said *Christopher*: By virtue of which fine, and by force of the statute for transferring uses into possession, the said *Christopher* and *Mary* were seised of the tenements aforesaid, with the appurtenances, for the term of their lives and the life of the longer liver of them, the remainder thereof

thereof as is aforesaid: And afterwards, to wit, on the 18th day of *November* in the 17th year of the reign of the Lord *Charles* the First, late King of *England*, at *Harrow on the Hill* aforesaid the said *Christopher* of such his estate died seised, and the said *Mary* him survived and kept herself in: And afterwards, to wit, on the 7th day of *March* in the year of the Lord 1648, the same *Mary* at *Harrow on the Hill* aforesaid of such her estate died seised; after whose death the tenements aforesaid, with the appurtenances, descended to one *Christopher Clitberoe*, as son and heir male of the said *Christopher* the grandfather by him on the body of the said *Mary* begotten, which said *Christopher* the son into the tenements aforesaid with the appurtenances entered, and was thereof seised in his demesne as of fee-tail by virtue of the gift aforesaid; and afterwards, to wit, on the 20th day of *April* in the year of the Lord 1655, the said *Christopher* the son, at *Harrow on the Hill* aforesaid, of such his estate thereof died seised; and from the said *Christopher* descended the same tenements, with the appurtenances, to one *Thomas Clitberoe* as son and heir of the said *Christopher* the son, which said *Thomas Clitberoe* into the tenements aforesaid with the appurtenances entered, and was thereof seised in his demesne as of fee-tail, by virtue of the gift aforesaid; and afterwards, to wit, on 2d day of *November* in the year of the Lord 1681, at *Harrow on the Hill* aforesaid, the same *Thomas* of such his estate therein died seised without heir male from his body issuing; and from the said *Thomas* descended the tenements aforesaid, with the appurtenances, to one *Christopher Clitberoe* as brother and heir of the said *Thomas*, which said *Christopher* the brother into the tenements aforesaid with the appurtenances entered, and was thereof seised in his demesne as of fee-tail, by virtue of the gift aforesaid; and afterwards, to wit, on the 22d day of *October* in the year of the Lord 1686, at *Harrow on the Hill* aforesaid the same *Christopher* the brother of such his estate thereof died seised without heir male from his body issuing; and from the said *Christopher* descended the same tenements aforesaid, with the appurtenances, to one *James Clitberoe*, as cousin and heir male of the said *Christopher* the grandfather upon the body of the said *Mary* begotten, to wit, son and heir of the said *James Clitberoe*, who was son of *Christopher* the grandfather, by the same *Christopher* the grandfather on the body of the said *Mary* begotten, which said *James* the son into the tenements aforesaid with the appurtenances entered, and was seised thereof in his demesne as of fee-tail by virtue of the gift aforesaid; and the said *James* so thereof being seised afterwards, and before the issuing of the aforesaid writ, to wit, on the 1st day of *January* in the year of the Lord 1686, at *Harrow on the Hill* aforesaid demised the tenements aforesaid, with the appurtenances, to the said *Thomas Franklyn* and *Mary* his wife, as long as it should please the said *James* and *Thomas Franklyn* and *Mary* his wife; by virtue of which said demise the same *Thomas* and *Mary* afterwards, and before the issuing of the said writ, to wit, the same day and year, into the tenements aforesaid with the appurtenances entered, and were thereof possessed: And they farther say, that they are not tenants of the same tenements as of freehold, nor were on the day of the issuing of the original writ of the said *Henry*, or ever after: And this they are ready to verify: Wherefore they pray judgment of the writ aforesaid, &c.

Death of one of the tenants for life.

The other tenant for life dies.

Remainder descends.

Seisin in tail.

Death of tenant in tail.

Entry of him in remainder.

Dies without issue.

Descent to the grandfather.

Entry and seisin in tail.

Lease at will.

Not tenants of the freehold pleaded in abatement.

The demandant protests, and replies they were tenants of the freehold, &c.

Demurrer in bar.

Continuance.

And the said *Henry Clitberoe* says, that his writ aforesaid by any thing before alledged ought not to be quashed, because by protesting that the said *Christopher Clitberoe* the grandfather did not die seised of the tenements aforesaid, with the appurtenances, in his demesne as of fee-tail, as the said *Thomas Franklyn* and *Mary* his wife above by pleading have alledged, for plea the same *Henry* says, that the said *Thomas Franklyn* and *Mary* his wife, on the day of the issuing of the original writ of the said *Henry Clitberoe*, to wit, on the 22d day of *April* in the 3d year of the reign of the Lord *James* the Second, the late King, were tenants as of the freehold of the tenements aforesaid, with the appurtenances, as the same *Henry Clitberoe* by his writ aforesaid above supposes: And this he prays may be inquired of by the country, &c.

And the said *Thomas* and *Mary* say, that the plea of the said *Henry* above in replying pleaded, and the matter in the same contained, are not sufficient in law for the said *Henry* to maintain his said action against them the said *Thomas* and *Mary* had, and that they to that plea in manner and form aforesaid pleaded have no necessity nor are by the law of the land bound to answer: And this they are ready to verify: Wherefore for want of a sufficient replication in this behalf the same *Thomas* and *Mary* pray judgment, and that the said *Henry* may be precluded from his action aforesaid had, &c.

And the said *Henry*, for that he hath in replying above alledged sufficient matter in law to maintain his writ aforesaid, which he is ready to verify, which said matter the said *Thomas* and *Mary* do not deny, nor thereto any way answer, but the averment aforesaid altogether refuse to admit, prays judgment, and that his writ aforesaid may be adjudged good, and seisin of the tenements aforesaid, with the appurtenances, may be adjudged to him, &c. And because the justices here will advise themselves of and upon the premises before they give judgment thereon, a day is given the parties aforesaid here until the morrow of the Holy *Trinity* to hear their judgment thereon, because the same justices here thereof not yet, &c. At which day here come as well the said *Henry* as the said *Thomas* and *Mary* by their attornies aforesaid; and upon this the premises being seen, and by the justices here more fully understood, it seems to the same justices here, that the said *Henry*

Judgment to answer over. hath above in replying alledged sufficient matter in law to maintain his writ aforesaid: Wherefore it is said by the court here to the said *Thomas* and *Mary*, that they farther answer

Plea in chief. the said *Henry* to his writ and count aforesaid, &c. And upon this the said *Thomas* and *Mary* defend his right when, &c. and say, that the said *Henry* ought not to have his action aforesaid against them, because they say, that long before the said *Christopher* had any thing in the tenements aforesaid, with the appurtenances, one *Bryan Edlyn* was seised of and in the tenements aforesaid, with the appurtenances, in his demesne as of fee, and he being so thereof seised

Seisin in fee. a certain fine was levied in the court of the Lord *James* the First, late King of *England*, at *Westminster*, to wit, in the Octave of the purification of the blessed *Mary* in the year of the reign of the said King *James* the First of *England*, *France* and *Ireland*, 7th; and of *Scotland* 43d, before *E. Coke*, *T. Walmsly*, *P. Warburton*, *W. Daniel* and *T. Foster*, justices and others the faithful subjects of him the late King then there present, between the said *Christopher*, by the name of *Christopher Clitberoe*, plaintiff, and the said *Brian* and *Margaret* then his wife, deforceants of the tenements aforesaid with the appurtenances, by the name of one messuage, four cottages, five barns, four gardens, four orchards, 34 acres of land and six acres of wood, with the appurtenances, in *Pynnor*, whereof a plea of covenant was summoned between them in the same court, to wit, that the said *Brian* and *Margaret* acknowledged the said tenements, with the appurtenances, to be the right of the said *Christopher*, as that which the said *Christopher* had of the gift of the said *Brian* and *Margaret*; and that they released and quitted claim from them the said *Brian* and *Margaret* and their heirs to the said *Christopher* and his heirs for ever: And farther the same *Brian* and *Margaret* granted for themselves and the heirs of the said *Brian*, that they would warrant to the said *Christopher* and his heirs the said tenements, with the appurtenances, against the said *Brian* and *Margaret* and the heirs of the said *Brian* for ever: Which said fine so had and levied was had and levied to the use of the said *Christopher* and *Mary* then his wife for the term of their lives and the life of the longer liver of them, and from and after their decease, to the use of the heirs male of the body of the said *Christopher* on the body of the said *Mary* begotten or to be begotten; and for want of such heirs male, then to the use of the heirs of the body of the said *Christopher* begotten or to be begotten; and for want of such issue, then to the use of the right heirs of the said *Christopher*: By virtue of which fine, and by force of the statute for transferring uses into possession, to wit, at *Harrow on the Hill* aforesaid in the county aforesaid, the said *Christopher* and *Mary* were seised of and in the tenements aforesaid, with the appurtenances, for the term of their lives and the life of the longer liver of them, the remainder thereof to the heirs male of the body of the said *Christopher*, on the body of the same *Mary* begotten, the remainder thereof as aforesaid: And afterwards, to wit, on the 18th day of *November* in the 17th year of the reign of the Lord *Charles* the First, late King of *England*, at *Harrow on the Hill* aforesaid the said *Christopher* of such his estate died seised, and the said *Mary* survived him and kept herself in; and afterwards, to wit, the 7th day of *March* in the year of the Lord 1648, the same *Mary* at *Harrow on the Hill* aforesaid died thereof of such her estate seised; after whose death the tenements aforesaid, with the appurtenances, descended to one *Christopher Clitberoe* as son and heir male of the body of the said *Christopher* the grandfather, by him on the body of the said *Mary* begotten, which said *Christopher* the son into the tenements aforesaid with the appurtenances entered, and was thereof seised in his demesne as of fee-tail by virtue of the gift aforesaid; and afterwards, to wit, on the 20th day of *April* in the year of the Lord 1655, the same *Christopher* at *Harrow on the Hill* aforesaid of such his estate therein died seised, and from that *Christopher* descended the same tenements, with the appurtenances, to one *Thomas Clitberoe* as son and heir of the said *Christopher* the son, which said *Thomas* into the tenements aforesaid with the appurtenances entered, and was thereof seised in his demesne as of fee-tail by virtue of the gift aforesaid; and afterwards, to wit, on the 2d day of *November* in the year of the Lord 1681, the said *Thomas* at *Harrow on the Hill* aforesaid of such his estate therein died seised without heir male of his body issuing, and from the said *Thomas* descended the same tenements, with the appurtenances, to one *Christopher Clitberoe* as brother and heir of the said *Thomas*, which said *Christopher* the brother into the tenements aforesaid with the appurtenances entered, and was thereof seised in his demesne as of fee-tail by virtue of the gift aforesaid; and afterwards, to wit, on the 22d day of *October* in the year of the Lord 1686, at *Harrow on the Hill* aforesaid the same *Christopher* the brother of such his estate therein died seised without heir male from his body issuing, and from that *Christopher* descended the tenements aforesaid, with the appurtenances, to one *James Clitberoe*, as cousin and heir male of the body of *Christopher* the grandfather on the body of the said *Mary* begotten, to wit, son and heir of *James Clitberoe* who was son of the said *Christopher* the grandfather, by the same *Christopher* the grandfather on the body of the said *Mary* begotten, which said *James* the son into the tenements aforesaid with the appurtenances entered, and was thereof seised in his demesne as of fee-tail by virtue of the gift aforesaid; and the same *James* being so thereof seised, afterwards, and before the issuing of the writ aforesaid, a certain fine was levied in the court of the Lord *James* the Second, late King of *England*, at *Westminster*, to wit, from the day of *St. Martin* in fifteen days, in the second year of the reign of *James* the Second, by the grace of God of *England*, *Scotland*, *France* and *Ireland* King, defender of the faith, &c. before *Henry Beddingfield*, *T. Street*, *E. Lutwyche* and *J. Powell*, justices and other faithful subjects of the said late King then there

Fine levied.

The uses.

Seisin by virtue of the statute of uses.

Tenant for life died seised.

Descent in tail.

Another fine levied.

present, between the said *Thomas Franklyn* and *Mary* his wife, plaintiffs, and the same *James Clitberoe* the son, deforcient of the tenements aforesaid, by the name of two messuages, forty acres of land, fifty acres of meadow, forty acres of pasture and ten acres of wood, with the appurtenances, in *Harrow on the Hill*, whereof a plea of covenant was summoned between them in the same court, to wit, that the same *James* acknowledged the said tenements, with the appurtenances, to be the right of the said *Thomas*, as those which the said *Thomas* and *Mary* had of the gift of the said *James*, and them he released and quitted claim from him the said *James* and his heirs to the same *Thomas* and *Mary* and the heirs of the said *Thomas* for ever: And farther the said *James* granted for himself and his heirs, that he would warrant to the said *Thomas* and *Mary*, and the heirs of the said *Thomas*, the tenements aforesaid, with the appurtenances, against him the said *James* and his heirs for ever; which said fine so as aforesaid levied, was had and levied to the use of the same *Thomas* and *Mary* for the term of their lives, and after their decease to the use of the same *Thomas* and his heirs for ever, to wit, at *Harrow on the Hill* aforesaid; by virtue of which fine, and by force of the statute for transferring uses into possession, the same *Thomas* and *Mary* were seised of the tenements aforesaid, with the appurtenances, for the term of their lives; with out that, that the said *Christopher* the grandfather died seised of the tenements aforesaid, with the appurtenances, in his demesne as of fee, in manner and form as the said *Henry* hath above alledged: And this they are ready to verify: Wherefore they pray judgment if the said *Henry* ought to have his said action against them, &c.

The use.

Seisin.

Traverse of the dying seised of the grandfather.

And the said *Henry* as before says, that *Christopher* the grandfather of the said *Henry* died seised of the tenements aforesaid, with the appurtenances, in his demesne as of fee, in manner and form as the same *Henry* above in declaring hath alledged; and this he prays may be inquired of by the country; and the said *Thomas* and *Mary* likewise: Therefore the sheriff is commanded that he cause to come here in the Octave of the Purification twelve, &c. by whom, &c. to recognize, &c. because as well, &c.

Issue upon the traverse.

At which day the jury between the parties in the plea aforesaid was put therein between them in respite here until from the day of the Holy Trinity in 15 days then next following, unless *Henry Pollexfen*, Knt. chief justice of the Lord and Lady the King and Queen of the Bench here, assigned by form of the statute, &c. on Friday the 14th day of February, at *Westminster* in the hall there commonly called *Westminster-hall*, shall first come: And now here at this day come the said *Thomas Franklyn* and *Mary* his wife by their attorney aforesaid: And the said chief justice before whom, &c. sent here his record before him had in these words: Afterwards the day and year within contained before *Henry Pollexfen*, Knt. chief justice of the Lord the King of the Bench, *A. B. Gent.* being associated to him by the form of the statute, &c. come as well the within named *Henry Clitberoe*, as the within written *Thomas Franklyn* and *Mary* his wife by their attorneys within contained: And the jurors of the jury, whereof mention is within made, being called likewise come, who to say the truth of the within contained being elected, tried and sworn, say upon their oaths, that the within named *Christopher*, the grandfather of the said *Henry*, did not die seised of the tenements within written, with the appurtenances, in his demesne as of fee, as the same *Henry* within by replying hath alledged: Therefore it is considered, that the said *Henry* take nothing by his writ, but be in mercy for his false suit, and that the said *Thomas Franklyn* and *Mary* go hence without day, &c.

The entry of the Jurata.

13 E. 1. c. 30.

12 E. 2. c. 4.

14 E. 3. c. 16.

The Postea.

Verdict for the tenants.

Judgment.

Mercy.

Pleas at Westminster before Henry Pollexfen, Knt. and his companions justices of the Lord and Lady the King and Queen of the Bench, of Hillary term in the first year of the reign of the Lord and Lady William and Mary, now King and Queen of England, &c.

Midd., to wit. **T**HE jury between *Henry Clitberoe*, Esq; demandant, and *Thomas Franklyn*, Esq; and *Mary* his wife, in a plea of land is put in respite here until from the day of the Holy Trinity in 15 days, unless *Henry Pollexfen*, Knt. chief justice of the Lord and Lady the King and Queen of the Bench here assigned by form of the statute, &c. on Friday the 14th day of February, at *Westminster* in the hall there, commonly called *Westminster-hall* in the county aforesaid, shall first come for want of jurors, because none come, therefore let the sheriff have the bodies, &c. And be it known, that the justices here in court this same term have delivered the writ thereof to *John Cooke*, Esq; the deputy sheriff of the county aforesaid, in form of law to be executed, &c.

The Jurata.

Arbitrement.

Arbitrement.

How to plead an award; with much useful learning on that subject.
Pract. Reg. 165, 171. 1 Salk. 69, 72, 67.

Arbitration bond.

K NOW all men by these presents, That *J. Joseph B.* of, &c. am held and firmly bound to *John W.* of, &c. in 100*l.* &c. to and in the year of the Lord 1720. The condition of this obligation is such, That if the above bounden *Joseph B.* his heirs, executors and administrators, and every of them, do and shall for his and their part and behalf well and truly in all things stand to, obey, abide, perform, fulfil and keep the award, order, arbitrement, end and final determination of *Daniel D.* of *Hackney* aforesaid, Esq; *J. C.* of the same, Esq; and *C. W.* of the same, Esq; or any two of them, arbitrators indifferently elected and named, as well on the part and behalf of the above-bounden *J. B.* as of the above-named *J. W.* to arbitrate, award, order, judge and determine of and concerning all and all manner of action and actions, cause and causes of action, suits, quarrels, controversies, trespasses, damages and demands whatsoever, at any time heretofore had, moved, brought, commenced, sued, prosecuted, done, suffered, committed or depending, by and between the said parties, or either of them, so as the said award be made by the said arbitrators or any two of them, and ready to be delivered to the parties in difference, or such of them as shall desire the same on or before the 14th day of *February* next, then this obligation to be void, else to remain in full force and virtue. And it is also agreed by and between the said *J. B.* and *J. W.* that this submission to the said award so to be made as aforesaid shall be made a rule of his Majesty's court of King's Bench at *Westminster*, pursuant to the late act of Parliament for that purpose.

9 & 10 W. 3.
c. 15.

Affidavit of the execution of the arbitration bond.

J. *T.* of *London*, Gent. maketh oath, That on or about the 28th day of *January* last past, he this deponent did see *J. B.* sign, seal, and as his act and deed deliver unto the said *J. W.* one bond or obligation, bearing date the said 28th day of *January*, with a condition thereto for the performance of an award to be made by *D. D.* of, &c. and *C. W.* of, &c. and *J. C.* of, &c. or any two of them, of all actions and demands whatsoever between them the said *J. W.* and *J. B.* And it was also thereby agreed by the said *J. B.* that the said submission to the award of the said arbitrators should be made a rule of his Majesty's court of King's Bench at *Westm'* pursuant to the act of Parliament for that purpose. And this deponent farther

farther faith, that the name of him this deponent subscribed as a witness thereto is the proper hand-writing of him this deponent.

Monday next after the morrow of the Purification of the blessed Mary in the 7th year of King George.

The rule of court thereupon.

ON reading the oath of J. T. Gent. and the bond and condition of the same, bearing date 28th day of *January* in the year of the Lord 1720, duly executed between the parties, it appears to the court here, that all and all manner of action and actions, cause and causes of action, suits, quarrels, controversies, trespasses, damages and demands whatsoever at any time before the date of the said bond had, moved, commenced, done, suffered, committed or depending by and between the said parties, or either of them, should be referred to the award and final determination of D. D. of *Hackney*, Esq; J. C. of the same, Esq; and C. W. of the same, Esq; so as they publish their award in writing under their hands and seals on or before the 14th day of *February* next following the date of the said bond. And it farther appears to the court here, that the said parties have submitted and agreed that the said submission be made a rule of this court: It is therefore order'd, that the said submission in manner and form aforesaid made, according to the form and effect of the statute in that behalf lately made and provided, be enter'd and made a rule of this court.

On the motion of Mr. Wearg.

Rule of reference to serjeant Darnell made at the sittings in Middlesex.

IT is order'd, that the order made at the sittings held at *Westminster* in the great hall of pleas there on *Monday*, to wit, the first day of *February* in the first year of the reign of the Lady *Anne*, now Queen of *England*, &c. before *John Holt*, Knt. chief justice of the said Lady the Queen assigned to hold pleas in the court of the said Lady the Queen before the Queen herself, be enter'd and made a rule of this court, which said order follows in these words: It is order'd by the assent of the parties, their counsel and attornies, that the matters in difference between the said parties in this cause shall be referred to the award and final determination of *John Darnell*, Knt. one of the serjeants at law of the Lady the Queen, so that he publish his award before the first day of next term, and that neither the said plaintiff nor the said defendant shall commence any suit in the court of Chancery, or in any other court of Equity, against the said arbitrator for or concerning his arbitratorship in this cause.

On the motion of Mr. Carthew.

By the court.

His award thereupon.

HAVING heard the parties fully to the matters in difference between them referred to me by the rule of court within written, I do award, that the defendant do pay to the plaintiff the sum of 36*l.* 10*s.* at the chamber of M. *John Lilly* in *Clifford's Inn*, *London*, between the hours of ten and eleven in the morning of the sixth day of this instant *March*, and that upon the payment thereof each party shall execute to the other a release under their several hands and seals of all matters in difference between them in the said cause. In Witness whereof I have hereunto set my hand the first day of *March* 1720.

John Darnell.

An award made by three foremen of the jury pursuant to a rule of reference at nisi prius.

WHEREAS at a sitting of *nisi prius* held at the *Guild-hall* of the city of *London* before Sir *Thomas Parker*, Knt. Lord chief justice of his Majesty's court of King's Bench at *Westminster* the 15th day of *February* last, a cause came on to be tried, wherein *Henry Brook* the younger was plaintiff, and *John Taylor* defendant, and on such trial, by consent of the said parties, their counsel and attornies, an order or rule was then made, that the said cause, and all other differences whatsoever between the said parties, should be referred

C c

to

to *Jeremiab Marlow, Joseph Brandon, and Samuel Gibson*, the three foremen of the jury impanelled and sworn to try the said cause, or any two of them, to hear and determine all the said matters and differences, so as the said *Jeremiab Marlow, Joseph Brandon, and Samuel Gibson*, or any two of them, should make and publish their award in writing on or before the first day of the next term: Now we the said *Jeremiab Marlow, Joseph Brandon and Samuel Gibson*, in pursuance of the said rule or order of reference, having thoroughly examined and considered the matters to us referred, as aforesaid, do award and order of and concerning the premisses in manner and form following:

Imprimis, We do award and order, that the said *John Taylor* shall well and truly pay, or cause to be paid, unto the said *Henry Brook* the sum of 94*l.* of good and lawful money of *Great Britain* on the sixteenth day of *May* next at the house of *Mr. Basson*, situate in *Cornhill, London*, commonly called or known by the name of *Basson's Coffee-house*, between the hours of ten and twelve of the clock in the forenoon of the same day.

Item, We do award and order, that the said *Henry Brook* shall upon payment of the said sum of 94*l.* execute to the said *John Taylor* a general release of all actions and demands until the said fifteenth day of *February* last: And also that the said *John Taylor* shall at the same time execute to the said *Henry Brook* the like release. *In Witness* whereof we have hereunto set our hands and seals this 27th day of *April* in the first year of the reign of our sovereign Lord *George*, by the grace of God of *Great Britan, France and Ireland* King, defender of the faith, &c. *Anno Domini* 1715.

Interrogatories to be administered to John Taylor in his Majesty's court of King's Bench, concerning a contempt supposed to be committed by him against the said court.

Interrogatories exhibited on an attachment of contempt in not performing an award.

Imprimis, Was you any time (and when) served with or had delivered to you a rule or paper writing, purporting to be a rule of his Majesty's court of King's Bench, or copy thereof? and what were the contents of the said rule or paper writing, and copy thereof; was the same to the effect, or of the tenor following; that is to say, *Die jovis prox' post quinden' pasche anno primo Georgii Regis, Brook versus Taylor, ordinat' est quod ordo fiat* (so insert the rule *verbatim*) to *per Cur'*. Who served the said rule or paper writing upon you, or delivered it, or copy thereof, to you? Did the person who served the said rule or paper writing upon you then acquaint you with the contents thereof, and deliver you a copy thereof? What was the tenor, purport or meaning of the said rule or paper writing so shewn or delivered unto you, as you then understood, or have been since informed? By whom, and about what time, when, and by whom, were you first acquainted with the contents of the said rule or paper writing, and did you know thereof? What did you then, or at any time before or since, say whether you would or would not pay the money mentioned in the award mentioned in that rule of court? Have you not declared you would never pay the said money, or perform the said award, and what have you at any time, and when, said, either before or after the service of the said rule, as to your refusing or not paying the said money, or not performing the said award? Declare the truth of all and every the matters inquired of you by this interrogatory.

Item, Do you know of any, and what award, at any time, and when made, by any, and what person or persons, in pursuance of the said rule inquired of by the preceding interrogatory? Were the names of the persons or arbitrators that made such award *Jeremiab Marlow, Joseph Brandon, and Samuel Gibson*, or what other name or names were they known or called by, and what was the tenor of such award? Was it to the tenor following? that is to say, Whereas at a sitting of *nisi prius* (so insert the award *verbatim*.) When were you first, or at any other time, acquainted with such award? By any, and what person or persons was you at any time, and when, served with, or had delivered to you a copy of the said award inquired of by any, and what person or persons, and

was you at any time, and when, required or desired by any, and what person or persons, to pay the sum of 94*l.* in the said award mentioned, or any other, and what sum, to *Henry Brook* in the said award named, or to perform the said award? And did you at any time or times, and when, and how often, refuse or neglect to pay the said 94*l.* to the said *Henry Brook*? Were you on the 16th day of *May* last at *Batson's Coffee-house*, *London*, in the said award mentioned, between the hours of ten and twelve of the clock with the said 94*l.* ready to pay the same to the said *Henry Brook*; and if so, how long did you continue there with the said 94*l.* to pay the same to the said *Henry Brook*, or have you at any time, and when, and where, and in whose presence, paid the said 94*l.* to the said *Henry Brook*? Declare the truth of all and every the matters inquired of you by this interrogatory.

Item, Were you not served with a rule of court, the tenor whereof is as followeth, That is to say, (*and so insert the rule for the attachment*;) And when did you see, or receive, or had the copy thereof? And was the said 94*l.* at any time, and when, demanded of you, and by whom, and why did you not pay the said 94*l.* Declare the truth of all and every the matters inquired of you by this interrogatory.

Edward Whitaker.

War.

Bar.

Drake and Bateman.

Bar by judgment in covenant on marriage articles pleaded by an executrix to debt on several bonds. Pract. Reg. 211, 295.

AND the said *Sarah Drake* by *John Lilly* her attorney comes and defends the force and injury when, &c. And says, that the said *Stephen Bateman* ought not to have or maintain his said action thereof against her, because she says, that *Thomas Morris*, Gent. otherwise, to wit, in *Easter* term last past came before the Lady *Anne*, now Queen of *England*, &c. at *Westminster* by *T. M.* his attorney, and produced in the same court of the said Lady the Queen then there his certain bill against the said *Sarah Drake*, by the name of *Sarah Drake*, widow, executrix of the will of *Robert Drake* the younger, executor of *Robert Drake* the elder, in the custody of the marshal, &c. in a plea of breach of covenant, and there were then pledges to prosecute, to wit, *John Doe* and *Richard Roe*; by which said bill the said *Thomas Morris* complained against the said *Sarah Drake*, widow, as executrix of the will of *Robert Drake* the younger, executor of *Robert Drake* the elder, being in the custody of the marshal of the *Marshalsey* of the said Lady the Queen before the Queen herself, for this, that whereas by certain articles of agreement in writing indented made the 17th day of *May* in the fourth year of the reign of the Lord and Lady *William* and *Mary* late King and Queen of *England*, at *London*, to wit, in the parish of *St. Mary le Bow* in the ward of *Cheape*, between him the said *Thomas* and the said *Sarah*, by the names of *Thomas Morris* of the city of *Canterbury* in the county of *Kent*, Gent. and *Sarah Morris* the eldest daughter of the said *Thomas Morris*, of the one part, and the said *Robert Drake* the elder and *Robert Drake* the younger, by the names of *Robert Drake* the elder of the town of *Cambridge* in the county of *Cambridge*, Gent. and *Robert Drake* the younger of the town of *Cambridge* aforesaid, the eldest son and heir apparent of the said *Robert Drake* the elder, of the other part; one part of which said articles sealed with the seal of the said *Robert Drake* the elder the same *Thomas* then produced in court, the date whereof was the same day and year, reciting, that whereas a marriage was intended by the grace of God then shortly to be had and solemnized between the said *Robert Drake* the younger and the said *Sarah Morris*, in consideration whereof by the same articles it was mutually covenanted, concluded and agreed, by and between the said parties to the said articles in manner and form in the same articles following: And first the same *Thomas Morris* by the same articles for himself, his heirs, executors and administrators, did covenant, promise and agree to and with the said *Robert Drake* the elder, his executors and administrators, that he the said *Thomas Morris*, his heirs, executors or administrators, within twelve months next after the said intended marriage should take effect, would well and truly pay, or cause to be paid, to the said *Robert Drake* the elder, his executors, administrators or assigns, the full and just sum of 3000 l. of good and lawful money of *England* for the full marriage portion of the said *Sarah Morris* to and with the said *Robert Drake* the younger: In consideration whereof the said *Robert Drake* the elder for himself, his heirs, executors and administrators, did by the same articles covenant, promise and agree to and with the said *Thomas Morris*, his heirs, executors and administrators, that he the said *Robert Drake* the elder, within the like space of 12 months next after the solemnization of the said marriage, would well and faithfully convey, assign and settle, or cause to be conveyed, assigned and settled, at his own proper costs and charges, by good and sufficient conveyance and assurance in the law, as by the said *Thomas Morris* or his heirs, or by his or

or their counsel learned in the law, should be reasonably devised or advised and required, lands and tenements situated in the *Ile of Ely* and in the county of *Cambridge* aforesaid, of the clear yearly value of 200*l.* of lawful money of *England*, beyond and above all reprises (parliamentary taxes excepted) and free from all incumbrances, to the use of the said *Robert Drake* the younger and the said *Sarab* his then intended wife, for the jointure of the said *Sarab*, and to and for such use and uses, and for such estate and estates, as was or were in the said articles after mentioned limited and appointed, to wit, to the use and behoof of the said *Robert Drake* the younger and *Sarab* his wife, in case the said intended marriage should take effect, for and during the term of their natural lives and the life of the longer liver of them the said *Robert* and *Sarab*; then to the use of trustees to preserve the contingent remainders in the said articles after limited; the remainder to the first son of the body of the said *Robert Drake* the younger on the body of the said *Sarab* to be begotten, and the heirs male of the body of such first son lawfully to be begotten, with the like remainders to the second, third and every other son; and for want of such heirs male, then to all and every the daughter and daughters of the body of the said *Robert Drake* the younger on the body of the said *Sarab* to be begotten, equally to be divided between them, and to take as tenants in common and not as jointenants, and to the several and respective heirs of their bodies lawfully begotten, the remainder to the right heirs of the said *Robert Drake* the younger: And farther, that the said *Robert Drake* the elder, his heirs, executors or administrators, at his proper costs and charges in the like manner and at the same time would well and sufficiently settle, convey and assure other lands and tenements, situate in the *Ile of Ely* and in the county of *Cambridge* aforesaid, of the clear yearly value of 200*l.* of lawful money of *England* beyond and above all reprises (parliamentary taxes excepted) and free from all incumbrances beside the lands and tenements in the said articles before mentioned, to such use and uses and for such estate and estates as in the said articles were then next after mentioned, that is to say, as to 100*l.* a year, part or parcel of the said last mentioned 200*l.* a year, to the use and behoof of *Sarab* then the wife of the said *Robert Drake* the elder, for and during the term of her natural life, and from and after the decease of the said *Sarab*, to the use and behoof of the said *Robert Drake* the younger and *Sarab* his wife, in case the said intended marriage should take effect, for and during the term of their natural lives and the life of the longer liver of them the said *Robert* and *Sarab*, for the augmentation of the jointure of the said *Sarab*; and from and after the decease of the longer liver of them, then to the heirs of the body of the said *Sarab* by the said *Robert Drake* the younger lawfully begotten or to be begotten, and for want of such issue then to the right heirs of the said *Robert Drake* the younger for ever: And as to the remaining 100*l.* a year (other part of the last mentioned 200*l.* a year) to the use and behoof of the said *Robert Drake* the elder for and during the term of his natural life; and from and after his decease, to the use and behoof of the said *Robert Drake* the younger for and during the term of his natural life, and then to trustees to preserve the contingent remainders in the said articles after limited; the remainder to the first son of the body of the said *Robert Drake* the younger on the body of the said *Sarab* to be begotten, and to the heirs male of the body of such first son, with the like remainders to the second, third and every other son; and for want of sons, then to the daughter and daughters of the body of the said *Robert Drake* the younger on the body of the said *Sarab* to be begotten, equally to be divided between them, and to take as tenants in common and not as jointenants, and to the several and respective heirs of their bodies lawfully to be begotten; the remainder to the right heirs of the said *Robert Drake* the younger, as by the said articles more fully appears: And the said *Thomas Morris* then in fact said, that after the making the said articles, to wit, on the first day of *July* in the 4th year of the reign of the said late King and Queen aforesaid, at *London* aforesaid in the parish and ward aforesaid, the marriage between the said *Robert Drake* the younger and the before named *Sarab* the daughter of the said *Thomas* was duly and lawfully had and solemnized; and that afterwards, to wit, on the 1st day of *August* in the 4th year aforesaid, the said marriage portion of the said *Sarab* of 3000*l.* by him the said *Thomas* to the said *Robert Drake* the elder was fully paid and satisfied, to wit, at *London* aforesaid in the parish and ward aforesaid: And the same *Thomas Morris* then farther in fact said, that the said *Robert Drake* the elder, his heirs, executors or administrators, at any time after the solemnization of the marriage aforesaid between the said *Robert Drake* the younger and the said *Sarab*, had not settled, conveyed or assured, nor had any of them settled, conveyed or assured, any other lands or tenements in the said *Ile of Ely* and in the county of *Cambridge*, or elsewhere, of the yearly value of 200*l.* or any part thereof, (over and beside the said lands and tenements in the said articles first mentioned) to the use and uses, and for the estate and estates, which in the said articles in that behalf were limited, expressed and mentioned, according to the form and effect of the articles

D d

aforesaid:

aforesaid: And so the same *Thomas Morris* said, that the said *Robert Drake* the elder in his life-time, and the said *Robert Drake* the younger after the death of the said *Robert Drake* the elder, and the said *Sarah* after the death of the said *Robert Drake* the younger, although often required, had not performed his covenant, nor had any of them performed it, but had broke the same, and the said *Sarah* did deny to perform it to him, to the damage of the said *Thomas* as he said 5000 *l.* And therefore he then produced the suit; &c. To which said declaration the said *Thomas* then prayed that the said *Sarah* might answer: And thereupon a day was given to the parties aforesaid until *Wednesday* next after a month of *Easter* then next following, to wit, to the said *Sarah* to imparl, and then to answer, &c. At which day before the said Lady the Queen at *Westminster* came the said *Thomas Morris* by his attorney aforesaid; and the said *Sarah Drake*, although on the same day solemnly called, did not come, nor any thing say in bar or preclusion of the action of the said *Thomas* aforesaid, whereby the same *Thomas* remained against the said *Sarah* therein undefended; wherefore the said *Thomas* ought to recover his damages against the same *Sarah* by reason of the premisses: And because it was unknown to the court of the said Lady the Queen then there, what damages the said *Thomas* had sustained by reason of the premisses aforesaid, the sheriffs of *London* were commanded, that by the oaths of good and lawful men of their bailiwick they should diligently inquire what damages the said *Thomas* had sustained, as well by reason of the premisses, as for his costs and charges by him about his suit in that behalf expended; and should send the inquisition which they should take thereon, together with the writ of the Queen to them directed, to the said Lady the Queen at *Westminster* on *Monday* next after the morrow of the Ascension of the Lord, under the seal, &c. and the seals, &c. The same day was given to the said *Thomas* there; &c. At which day before the said Lady the Queen at *Westminster* came the said *Thomas* by his attorney aforesaid: And the sheriffs of *London*, to wit, *James Bateman*, Knt. and *William Wilters*, Knt. by virtue of the writ aforesaid to them for that purpose directed, returned a certain inquisition taken before them by the oaths of 12 good, &c. at *Guildhall* in the city of *London*, situate in the parish of *St. Lawrence in the Old Jewry* in the ward of *Cheape* of the same city, on the 16th day of *May* in the first year of the reign of the Lady *Anne*, now Queen of *England*, &c. whereby it was found that the said *Thomas* had sustained damages by reason of the premisses aforesaid, besides his costs and charges by him about his suit in that behalf expended, to 2000 *l.* and for those costs and charges to 26 *s.* 8 *d.* Therefore it was then considered, that the said *Thomas Morris* should recover against the said *Sarah* the damages aforesaid by the inquisition aforesaid in form aforesaid found, as also 6 *l.* 13 *s.* 4 *d.* for his costs and charges aforesaid to the same *Thomas* by the said court by his assent of increase adjudged: Which said damages in the whole amount to 2008 *l.* to be levied on the goods and chattels which belonged to the said *Robert Drake* the elder at the time of his death in the hands of the said *Sarah* to be administered, if she should have so much in her hands; and if she should not have so much in her hands, then the costs and charges aforesaid to be levied on the proper goods and chattels of the said *Sarah*, as by the record thereof in the said court of the said Lady the Queen before the Queen herself at *Westminster* remaining more fully is manifest and doth appear: And the same *Sarah* farther says, that the articles aforesaid, upon which the said *Thomas Morris* in form aforesaid declared, were made for a good and real consideration of the marriage before-mentioned, and that after the marriage aforesaid the said sum of 3000 *l.* was paid, upon the account of the marriage aforesaid in the articles aforesaid mentioned, by him the said *Thomas Morris* to him the said *Robert Drake* the elder, in manner and form as in the declaration aforesaid is mentioned; and that the judgment aforesaid yet remains in its full force and effect, not revoked, reversed, annulled or satisfied: And the same *Sarah* farther says, that she the said *Sarah* now defendant, after the death of the said *Robert Drake* the elder and *Robert Drake* the younger, hath fully administered all the goods and chattels which were of the said *Robert Drake* the elder at the time of his death in her hands to be administered, and that she hath not, nor on the day of the exhibiting of the bill aforesaid or ever after had, any goods or chattels which belonged to the said *Robert Drake* the elder at the time of his death, except goods and chattels to the value of 5 *s.* which to the execution of the judgment aforesaid are chargeable and charged: And this she is ready to verify: Wherefore she prays judgment if the said *Stephen* ought to have or maintain his said action thereof against the said *Sarah*; with this, that the same *Sarah* will verify, that the said *Robert Drake* the elder, the testator in the judgment named, and the said *Robert Drake* the elder, the testator in the bill aforesaid of the said *Stephen* mentioned, are one and the same person, and not other nor divers.

AND the said *John Clay* by *John Lilly* his attorney comes and defends the force and injury, &c. And prays oyer of the writing obligatory aforesaid; and to him it is read, &c. He likewise prays oyer of the condition of the same writing; and to him it is read in these words: Which being read and heard, the same *John Clay* says, that the said *Bonham* ought not to have or maintain his action aforesaid thereof against him, because he says, that after the marriage aforesaid, and before the said *John Haffenden* and *Richard Haffenden* attained, or either of them attained, to the age of 21 years, to wit, on the fourth day of *July* in the 35th year of the reign of the said late King *Charles* the Second, they the said *John Haffenden* and *Richard Haffenden* at *London* aforesaid in the parish and ward aforesaid died: And this the same *John Clay* is ready to verify: Wherefore he prays judgment if the said *Bonham* his action, &c.

Bar that the persons died before 21.

AND the said *John Sandford* by *Henry Gandy* his attorney comes and defends the force and injury, &c. And says, that the declaration aforesaid, and the matter therein contained, are not sufficient in law for the said *Joseph* to maintain his action aforesaid against the said *John* had, to which said declaration the same *John* hath no necessity, nor is by the law of the land obliged, any way to answer: And this he is ready to verify: Wherefore for want of a sufficient declaration of the said *Joseph* in this behalf, the same *John* prays judgment, and that the said *Joseph* may be precluded from his action aforesaid against him the said *John* had, &c. And for cause of demurrer in law the same *John Sandford*, according to the form of the statute, &c. doth set down, and to the court here expresses the causes following, to wit, that the said two several causes of action, to wit, of trespass and trespass on the case in the declaration aforesaid contained and above shewn do not lie together, nor ought to be contained in one and the same declaration; and that in the declaration aforesaid there are divers vacant spaces wanting words to signify and express the days, months, years, and other things.

Demurrer in bar to a declaration.

Special causes.

27 El. c. 5.

4 Ann. c. 16.

Blanks in the declaration.

Pract. Reg.

435, 440.

And upon this the same *John* prays that the said *Joseph* may join in demurrer with the same *John*, and thereupon day is given by the court of the said Lord the now King here to the said *Joseph* before the Lord the King at *Westminster*, until *Thursday* next after the Octave of *St. Martin* from thence next following, to join with the same *John* in the demurrer in law aforesaid: And the said *Joseph* at the same day solemnly called does not come, nor farther prosecute his bill aforesaid against the said *Joseph*, but makes default: Therefore it is considered, that the said *Joseph* take nothing by his bill aforesaid, but that he and his pledges to prosecute, to wit, *John Doe* and *Richard Roe*, be for that in mercy: And the said *John* may go thereof without day, &c. And farther by the court of the said Lord the King now here it is considered, that the said *John* do recover against the said *Joseph* 4 l. for his costs and charges by him about his defence in this behalf sustained, to the same *John* by the court of the said Lord the King, according to the form of the statute in such case lately made and provided, adjudged, &c. And the said *John* may have thereof execution, &c.

Day given to the plaintiff to join in demurrer, who made default and was non-profit.

Judgment for the defendant to have costs.

23 H. 8. c. 15.

8 El. c. 2.

Midd, to wit. THE sheriff is commanded that he take *Charles Browne* and *John Doe* if, &c. and them safely, &c. so that he may have their bodies before the Lady the Queen at *Westminster* on *Wednesday* next after three weeks of the Holy Trinity, to answer to *Richard Chiswell* in a plea of trespass, and also to the bill of the said *Richard* against the said *Charles* for 8 l. 6 s. 3 d. upon promise, according to the custom of the court of the said Lady the Queen before the Queen herself to be exhibited: And that he have there then this precept.

The entry of a bill of Middlesex on the roll to save the statute of limitations.

By bill.

Holt Coleman.

At which day before the Lady the Queen at *Westminster* comes the said *Richard* in his proper person, and offers himself against the said *Charles* in the plea aforesaid: And the sheriff of *Middlesex*, to wit, *Owen Buckingham*, Knt. and *Edward Wills*, Knt. return that the said *Charles* is not found in his bailiwick.

Enter'd

Enter'd Trin. 8 W. 3. Roll 2904.

Repl', that
plaintiff sued
out a bill of
Middlesex to
prevent the
statute of li-
mitations oc-
curring.

21 Jac. c. 16.

Pract. Reg.

531, 534.

172.

AND the said *Richard* says, that he by any thing by the said *Charles* above in plead-
ing alledged ought not to be precluded from his action aforesaid thereof against the
said *Charles* had, because he says, that after the making of the promises and assumptions
aforesaid in the declaration aforesaid above specified, and within six years next after the
making of the same, and also before the day of the exhibition of the bill aforesaid, to wit, in
Trinity term in the 8th year of the reign of the Lord *William* the Third, late King of *Eng-
land, &c.* the same *Richard* for the recovery of his damages by reason of the non-perfor-
mance of the promises and assumptions aforesaid then sustained, prosecuted against the said
Charles out of the court of the said late King before the late King himself, the same court
being then at *Westminster* in the county of *Middlesex*, a certain precept of the said late
King, called a bill of *Middlesex*, at the suit of the said *Richard* to the then sheriff of the
county of *Middlesex* directed; whereby the said sheriff was commanded, that he should
take the said *Charles Browne*, if, &c. and him safely, &c. so that he should have his body
before the said late King at *Westminster* on *Wednesday* next after three weeks of the Holy
Trinity, to answer to the said *Richard Chiswell* in a plea of trespass, and also to the bill of
the said *Richard* against the said *Charles Browne* for 8 l. 6 s. 3 d. upon promise, according
to the custom of the court of the said late King, before the late King himself to be ex-
hibited, and that he should have there then that precept: The same day was given to the
said *Richard* there, &c. which said precept the same *Richard* prosecuted to the intent that
on the appearance of the said *Charles* in the same court, according to the custom of the
court aforesaid, the same *Richard* might declare as well in the plea of trespass aforesaid, in
the precept aforesaid mentioned, as in the plea of trespass on the case for the cause aforesaid,
for which the same *Richard* hath above declared against him; which said precept afterwards,
and before the return of the same, to wit, on the 22d day of *June* in the 8th year of the said
late King aforesaid, at *London* aforesaid in the parish and ward aforesaid, to *Owen Buck-
ingham*, Knt. and *Edward Willis*, Knt. then sheriff of the county of *Middlesex* aforesaid,
was delivered in form of law to be executed; on which said *Wednesday* next after three
weeks of the Holy *Trinity*, before the said late King at *Westminster*, came the said *Richard
Chiswell* in his proper person, and offer'd himself against the said *Charles Browne* in the plea
aforesaid; and the said sheriff of the county of *Middlesex* returned, that the said *Charles* is
not found in his bailiwick; and the same *Charles* did not come; whereupon the said *Richard*
afterwards, to wit, in the same *Trinity* term in the 8th year aforesaid, prosecuted out of the
same court of the said late King before the said late King himself, the same court then like-
wise being at *Westminster* aforesaid in the county of *Middlesex* aforesaid, a certain other pre-
cept at the suit of the said *Richard* against the said *Charles* directed to the then sheriff of the
county of *Middlesex* aforesaid, whereby the said sheriff was as before commanded, that he
should take the said *Charles* if, &c. and him safely, &c. so that he might have his body be-
fore the said late King at *Westminster* on *Friday* next after three weeks of *St. Michael*, to an-
swer to the said *Richard Chiswell* in a plea of trespass, and also to the bill of the said *Richard*
against the said *Charles* for 8 l. 6 s. 3 d. on promise, according to the custom of the court
of the said late King, before the late King himself to be exhibited, and that he should have
there then that precept: The same day was given to the said *Richard* there, &c. Which said
precept the same *Richard* prosecuted to the same intent above recited, and which said pre-
cept the same *Richard* afterwards, and before the return thereof, to wit, on the 10th day of
October in the 8th year aforesaid, at *London* aforesaid in the parish and ward aforesaid, to
John Woolfe, Knt. and *Samuel Blewit*, Knt. then sheriff of the county of *Middlesex* aforesaid,
delivered in due form of law to be executed: On which *Wednesday* next after three weeks of
St. Michael, before the said late King at *Westminster*, came the said *Richard Chiswell* in his
proper person, and offered himself against the said *Charles* in the plea aforesaid, and the said
sheriff of the county of *Middlesex* did not return that last mentioned precept, nor did any
thing therein: Therefore, as before, the said sheriff of the county of *Middlesex* aforesaid was
commanded that he should take the said *Charles*, if, &c. and him safely, &c. so that he might
have his body before the said late King at *Westminster* on *Saturday* next after the Octave of *St.
Hillary*, to answer to the said *Richard Chiswell* in a plea of trespass, and to the bill aforesaid:
The same day was given to the said *Richard* there, &c. before which day the said late King
William the Third departed this life: And on the same day the process on the precept afore-
said, and the plea of the process last mentioned, was adjourned by writ of the Lady *Anne*, now
Queen of England, &c. of common adjournment before the same Lady the Queen at *West-
minster*, until from the day of *Easter* in three weeks from thence next following: On which
day from *Easter* in three weeks before the said Lady *Anne*, now Queen of England, &c. at
Westminster came the said *Richard* in his proper person, and offered himself against the said
Charles in the plea aforesaid, and the sheriff did not return the precept last mentioned, nor
did any thing therein; and the said *Charles* did not come: Therefore, as before, the sheriff
was commanded that he should take the said *Charles*, if, &c. and him safely, &c. so that

Demise of the
King.

that he should have his body before the said Queen at *Westminster* on next after to answer to the said *Richard* in the plea and bill aforesaid: The same day was given to the said *Richard* there, &c. At which day before the said Lady the Queen at *Westminster* came the said *Richard* in his proper person; and offered himself against the said *Charles* in the plea aforesaid, and the sheriff did not return the precept last mentioned, nor did any thing therein; and the said *Charles* did not come: Whereupon on the behalf of the said *Richard*; in the said court of the said Lady the Queen before the Queen herself, on the same day it was sufficiently attested, that the said *Charles* did run up and down and secrete himself in the county of *Suffolk*: Therefore the sheriff of the county of *Suffolk* aforesaid was then and there commanded that he should take the said *Charles*, if he should be found in his bailiwick, and safely keep him, so that he might have his body before the said Lady the Queen at *Westminster* on *Wednesday* next after fifteen days of *St. Martin* from thence next following, to answer to the said *Richard* in the plea and bill aforesaid, and that he should have there then that writ: The same day was given to the said *Richard* there, &c. At which day before the said Lady the Queen at *Westminster* came the said *Richard* by *John Allen* his attorney, and the sheriff did not return the writ, nor did any thing therein; but the said *Charles* by *Edward W.* his attorney at the same day likewise came, and in the same court here appeared at the suit of the said *Richard* in the plea aforesaid: And thereupon the same *Richard* against the said *Charles* for the said cause of action in the declaration aforesaid above mentioned in the same court of the said Lady the Queen before the Queen herself, to wit; at *Westminster* aforesaid in the county of *Middlesex* aforesaid, in the said *Michaelmas* term in the fourth year of Queen *Anne* aforesaid; by his bill aforesaid declared in manner and form aforesaid: And the same *Richard* farther says, that the said *Charles* within six years next before the prosecution of the said precept, called a bill of *Middlesex* above mentioned; at *London* aforesaid in the parish and ward aforesaid; did assume upon himself in manner and form as the said *Richard* above against the said *Charles* thereof complains: And this he is ready to verify: Wherefore he prays judgment and his damages by reason of the non-performance of the promises and assumptions aforesaid to be adjudged to him, &c.

Latini feed out.

Promised within 6 years before the bill of *Middlesex*.

Tho. Pengelly.

WHEN, &c. And says, that the said *John* ought not to have or maintain his action thereof against him, because he says, that well and true it is that he did assume upon himself in manner and form as the said *John* against him hath declared; but the said *Joseph* farther says, that after making of the several promises and assumptions in the declaration aforesaid above supposed to be made, to wit, on the 4th day of *September* in the fifth year of the reign of the Lord *George*, now King of *Great Britain*, &c. at *London* aforesaid in the parish and ward aforesaid; he gave and delivered to the said *John* 100 hogheads of tobacco, in full satisfaction and discharge of the several promises and assumptions aforesaid, and of all the money therein mentioned; which said ten hogheads of tobacco the said *John*, in full satisfaction and discharge of the several promises and assumptions aforesaid, and of all the money in the same mentioned, from the said *Joseph* then and there had and received: And this he is ready to verify: Wherefore he prays judgment if the said *John* ought to have or maintain his action aforesaid thereon against him, &c.

That he delivered 100 hogheads of tobacco in satisfaction.

6 Rep. 34.

Pract. Reg.

13, 15.

Dy. 1.

2 Ro. Rep.

96.

Raym. 450.

2 Jon. 158.

168.

2 Keb. 332.

9 Co. 80. b.

Stile 215.

5 Co. 44. a.

6 Co. 43.

W. Brainbwait.

And the said *John* says, that he ought not to be precluded from his action aforesaid by any thing by the said *Joseph* in pleading alledged, because he says, that the said *Joseph* did not give and deliver to the same *John* 100 hogheads of tobacco, in full satisfaction and discharge of the several promises and assumptions aforesaid, and of all the money in the same mentioned, in manner and form as the said *Joseph* hath alledged: And this he prays may be inquired of by the country: And the said *Joseph* likewise, &c.

Repl. that he did not deliver, and issue thereon.

And the said *John* says, that the plea aforesaid by the said *James* in manner and form above pleaded, and the matter in the same contained, are not sufficient in law to preclude him the said *John* from his action aforesaid against him the said *Joseph* had, and that he the said *John* hath no necessity, nor is bound by the law of the land, in any way to answer to that plea in manner and form aforesaid pleaded: And this he is ready to verify: Wherefore for want of a sufficient plea in this behalf, the same *John* prays judgment and his damages by reason of the premisses aforesaid to be adjudged to him, &c. And for causes of demurrer in law in this behalf, according to the form of the statute in such case made, he sets down and to the court here expresses these causes following: Because the said *James* in his plea aforesaid hath alledged, that he gave and delivered to the said *John* 100

Demurrer to the plea.

27 El. c. 5.

4 Ann. c. 16.

E c

hogheads

Enter'd Trin. 8 W. 3. Roll 2904.

Repl', that
plaintiff sued
out a bill of
Middlesex to
prevent the
statute of li-
mitations oc-
curring.
21 Jac. c. 16.
Pract. Reg.
§ 31, 534
172.

AND the said *Richard* says, that he by any thing by the said *Charles* above in plead-
ing alledged ought not to be precluded from his action aforesaid thereof against the
said *Charles* had, because he says, that after the making of the promises and assumptions
aforesaid in the declaration aforesaid above specified, and within six years next after the
making of the same, and also before the day of the exhibition of the bill aforesaid, to wit, in
Trinity term in the 8th year of the reign of the Lord *William* the Third, late King of *Eng-
land*, &c. the same *Richard* for the recovery of his damages by reason of the non-perfor-
mance of the promises and assumptions aforesaid then sustained, prosecuted against the said
Charles out of the court of the said late King before the late King himself, the same court
being then at *Westminster* in the county of *Middlesex*, a certain precept of the said late
King, called a bill of *Middlesex*, at the suit of the said *Richard* to the then sheriff of the
county of *Middlesex* directed; whereby the said sheriff was commanded, that he should
take the said *Charles Browne*, if, &c. and him safely, &c. so that he should have his body
before the said late King at *Westminster* on *Wednesday* next after three weeks of the Holy
Trinity, to answer to the said *Richard Chiswell* in a plea of trespass, and also to the bill of
the said *Richard* against the said *Charles Browne* for 81 l. 6 s. 3 d. upon promise, according
to the custom of the court of the said late King, before the late King himself to be ex-
hibited, and that he should have there then that precept: The same day was given to the
said *Richard* there, &c. which said precept the same *Richard* prosecuted to the intent that
on the appearance of the said *Charles* in the same court, according to the custom of the
court aforesaid, the same *Richard* might declare as well in the plea of trespass aforesaid, in
the precept aforesaid mentioned, as in the plea of trespass on the case for the cause aforesaid,
for which the same *Richard* hath above declared against him; which said precept afterwards,
and before the return of the same, to wit, on the 22d day of *June* in the 8th year of the said
late King aforesaid, at *London* aforesaid in the parish and ward aforesaid, to *Owen Buck-
ingham*, Knt. and *Edward Willis*, Knt. then sheriff of the county of *Middlesex* aforesaid,
was delivered in form of law to be executed; on which said *Wednesday* next after three
weeks of the Holy *Trinity*, before the said late King at *Westminster*, came the said *Richard
Chiswell* in his proper person, and offer'd himself against the said *Charles Browne* in the plea
aforesaid; and the said sheriff of the county of *Middlesex* returned, that the said *Charles* is
not found in his bailiwick; and the same *Charles* did not come; whereupon the said *Richard*
afterwards, to wit, in the same *Trinity* term in the 8th year aforesaid, prosecuted out of the
same court of the said late King before the said late King himself, the same court then like-
wise being at *Westminster* aforesaid in the county of *Middlesex* aforesaid, a certain other pre-
cept at the suit of the said *Richard* against the said *Charles* directed to the then sheriff of the
county of *Middlesex* aforesaid, whereby the said sheriff was as before commanded, that he
should take the said *Charles* if, &c. and him safely, &c. so that he might have his body be-
fore the said late King at *Westminster* on *Friday* next after three weeks of *St. Michael*, to an-
swer to the said *Richard Chiswell* in a plea of trespass, and also to the bill of the said *Richard*
against the said *Charles* for 81 l. 6 s. 3 d. on promise, according to the custom of the court
of the said late King, before the late King himself to be exhibited, and that he should have
there then that precept: The same day was given to the said *Richard* there, &c. Which said
precept the same *Richard* prosecuted to the same intent above recited, and which said pre-
cept the same *Richard* afterwards, and before the return thereof, to wit, on the 10th day of
October in the 8th year aforesaid, at *London* aforesaid in the parish and ward aforesaid, to
John Woolfe, Knt. and *Samuel Blewit*, Knt. then sheriff of the county of *Middlesex* aforesaid,
delivered in due form of law to be executed: On which *Wednesday* next after three weeks of
St. Michael, before the said late King at *Westminster*, came the said *Richard Chiswell* in his
proper person, and offered himself against the said *Charles* in the plea aforesaid, and the said
sheriff of the county of *Middlesex* did not return that last mentioned precept, nor did any
thing therein: Therefore, as before, the said sheriff of the county of *Middlesex* aforesaid was
commanded that he should take the said *Charles*, if, &c. and him safely, &c. so that he might
have his body before the said late King at *Westminster* on *Saturday* next after the Octave of *St.
Hillary*, to answer to the said *Richard Chiswell* in a plea of trespass, and to the bill aforesaid:
The same day was given to the said *Richard* there, &c. before which day the said late King
William the Third departed this life: And on the same day the process on the precept afore-
said, and the plea of the process last mentioned, was adjourned by writ of the Lady *Anne*, now
Queen of *England*, &c. of common adjournment before the same Lady the Queen at *West-
minster*, until from the day of *Easter* in three weeks from thence next following: On which
day from *Easter* in three weeks before the said Lady *Anne*, now Queen of *England*, &c. at
Westminster came the said *Richard* in his proper person, and offered himself against the said
Charles in the plea aforesaid, and the sheriff did not return the precept last mentioned, nor
did any thing therein; and the said *Charles* did not come: Therefore, as before, the sheriff
was commanded that he should take the said *Charles*, if, &c. and him safely, &c. so that

Demise of the
King.

that he should have his body before the said Queen at *Westminster* on next after to answer to the said *Richard* in the plea and bill aforesaid: The same day was given to the said *Richard* there, &c. At which day before the said Lady the Queen at *Westminster* came the said *Richard* in his proper person, and offered himself against the said *Charles* in the plea aforesaid, and the sheriff did not return the precept last mentioned, nor did any thing therein; and the said *Charles* did not come: Whereupon on the behalf of the said *Richard*, in the said court of the said Lady the Queen before the Queen herself, on the same day it was sufficiently attested, that the said *Charles* did run up and down and secrete himself in the county of *Suffolk*: Therefore the sheriff of the county of *Suffolk* aforesaid was then and there commanded that he should take the said *Charles*, if he should be found in his bailiwick, and safely keep him, so that he might have his body before the said Lady the Queen at *Westminster* on *Wednesday* next after fifteen days of *St. Martin* from thence next following, to answer to the said *Richard* in the plea and bill aforesaid, and that he should have there then that writ: The same day was given to the said *Richard* there, &c. At which day before the said Lady the Queen at *Westminster* came the said *Richard* by *John Allen* his attorney, and the sheriff did not return the writ, nor did any thing therein; but the said *Charles* by *Edward W.* his attorney at the same day likewise came, and in the same court here appeared at the suit of the said *Richard* in the plea aforesaid: And thereupon the same *Richard* against the said *Charles* for the said cause of action in the declaration aforesaid above mentioned in the same court of the said Lady the Queen before the Queen herself, to wit; at *Westminster* aforesaid in the county of *Middlesex* aforesaid, in the said *Michaelmas* term in the fourth year of *Queen Anne* aforesaid, by his bill aforesaid declared in manner and form aforesaid: And the same *Richard* farther says, that the said *Charles* within six years next before the prosecution of the said precept, called a bill of *Middlesex* above mentioned; at *London* aforesaid in the parish and ward aforesaid, did assume upon himself in manner and form as the said *Richard* above against the said *Charles* thereof complains: And this he is ready to verify: Wherefore he prays judgment and his damages by reason of the non-performance of the promises and assumptions aforesaid to be adjudged to him, &c.

Latini sued out.

Promised within 6 years before the bill of *Middlesex*.

Tho. Pengelly.

WHEN, &c. And says, that the said *John* ought not to have or maintain his action thereof against him, because he says, that well and true it is that he did assume upon himself in manner and form as the said *John* against him hath declared; but the said *Joseph* farther says, that after making of the several promises and assumptions in the declaration aforesaid above supposed to be made, to wit, on the 4th day of *September* in the fifth year of the reign of the *Lord George*, now King of *Great Britain*, &c. at *London* aforesaid in the parish and ward aforesaid, he gave and delivered to the said *John* 100 hogheads of tobacco, in full satisfaction and discharge of the several promises and assumptions aforesaid, and of all the money therein mentioned; which said ten hogheads of tobacco the said *John*, in full satisfaction and discharge of the several promises and assumptions aforesaid, and of all the money in the same mentioned, from the said *Joseph* then and there had and received: And this he is ready to verify: Wherefore he prays judgment if the said *John* ought to have or maintain his action aforesaid thereon against him, &c.

That he delivered 100 hogheads of tobacco in satisfaction.

6 Rep. 34. Pract. Reg.

13, 15.

Dy. 1.

2 Ro. Rep.

96.

Raym. 450.

2 Jon. 158,

168.

2 Keb. 332.

9 Co. 80. b.

Stile 215.

5 Co. 44. a.

6 Co. 43.

W. Brainbwait.

And the said *John* says, that he ought not to be precluded from his action aforesaid by any thing by the said *Joseph* in pleading alledged, because he says, that the said *Joseph* did not give and deliver to the same *John* 100 hogheads of tobacco, in full satisfaction and discharge of the several promises and assumptions aforesaid, and of all the money in the same mentioned, in manner and form as the said *Joseph* hath alledged: And this he prays may be inquired of by the country: And the said *Joseph* likewise, &c.

Repl. that he did not deliver, and issue thereon.

And the said *John* says, that the plea aforesaid by the said *James* in manner and form above pleaded, and the matter in the same contained, are not sufficient in law to preclude him the said *John* from his action aforesaid against him the said *Joseph* had, and that he the said *John* hath no necessity, nor is bound by the law of the land, in any way to answer to that plea in manner and form aforesaid pleaded: And this he is ready to verify: Wherefore for want of a sufficient plea in this behalf, the same *John* prays judgment and his damages by reason of the premisses aforesaid to be adjudged to him, &c. And for causes of demurrer in law in this behalf, according to the form of the statute in such case made, he sets down and to the court here expresses these causes following: Because the said *James* in his plea aforesaid hath alledged, that he gave and delivered to the said *John* 100 hogheads

Demurrer to the plea.

27 El. c. 5.

4 Ann. c. 16.

E c

hogheads

hogheads of tobacco in full satisfaction and discharge of the several promises and assumptions aforesaid, and of all the money in the same mentioned; and afterwards hath alledged the acceptance in the words following, Which said ten hogheads of tobacco the said *John*, in full satisfaction and discharge of the several promises and assumptions aforesaid, and of all the money in the same mentioned, from the said *Joseph* then and there had and received: And the said *John* farther says, that the plea aforesaid is inconsistent, incertain, not issuable, and wants form.

C. Wearg.

Causes of demurrer assigned after a general demurrer.
2 Ro. Rep. 330.

The defendants demur in law, because the same *Margaret* hath brought and prosecuted her action aforesaid against the same *Edward Thomas, &c.* in the county of the city of *London*, where by the law of the land the action aforesaid, for the rent aforesaid by the same *Margaret* in manner and form aforesaid prosecuted, ought to be brought and laid in the counties of *Essex* and *Middlesex*, or one of them; and also because the demise by the indenture in the declaration specified is not alledged precisely and affirmatively, but by way of relation and recital.

C. Wearg.

Joinder in demurrer to a plea in bar.

AND the said *Joseph* says, that the plea aforesaid by him the said *Joseph* in manner and form aforesaid above pleaded, and the matter in the same contained, are good and sufficient in law to preclude him the said *John* from his action aforesaid thereof against him the said *Joseph* had; which said plea, and the matter in the same contained, the same *Joseph* is ready to verify and prove, as the court, &c. And because the said *John Moubray* doth not answer that plea, nor any way hitherto deny it, the said *Joseph* prays judgment, and that the said *John Moubray* may be precluded from his action aforesaid thereof against him the said *Joseph* had, &c. But because the court of the said Lord the King now here are not yet advised to give their judgment of and upon the premises, day therefore is given to the parties aforesaid before the Lord the King at *Westminster* until next after to hear their judgment of and upon those premises, because the court of the said Lord the King now here not yet, &c.

Demurrer in abatement to a declaration in trespass.

WHEN, &c. And prays judgment of the declaration aforesaid, because he says, that the declaration aforesaid, and the matter in the same contained, are not sufficient in law to maintain the action of him the said *Thomas* against him the said *Edward* had, to which the same *Edward* hath no necessity, nor is obliged by the law of the land, to answer: And this he is ready to verify: Wherefore for want of a sufficient declaration in this behalf, the said *Edward* prays judgment of that declaration, and that the same declaration may be quashed, &c. And for causes of demurrer in law upon the declaration aforesaid, the same *Edward*, according to the form of the statute in such case lately made and provided, sets down and to the court here expresses these causes following, to wit, that no town, parish or place is alledged in the same declaration where the said *Edward* the close aforesaid broke or enter'd, and for that the same declaration is in itself repugnant, contradictory, and wants form, &c.

Tho. Booth.

White and Combes and others.

Imparlanee for three defendants, two plead *Non assumpsit*.

AND now at this day, to wit, &c. next after, &c. in this same term, until which day the said *John Combes, John Foster* and *Charles Wilkinson*, had leave to imparl to the said bill, and then to answer, &c. before the Lord the King at *Westminster* come as well the said *Elizabeth* by her attorney aforesaid, as the said *John C. J. F.* and *Charles Wilkinson* by *G. W.* their attorney: And the same *John Combes, Thomas Foster* and *Charles W.* defend the force and injury when, &c. And the said *J. C.* and *T. F.* say, that they did not assume upon themselves in manner and form as the said *Elizabeth* above against them complains: And of this they put themselves on the country: And the said *Elizabeth* thereof likewise, &c.

The 3d *Non assumpsit*; and by leave of the court.

And the said *Charles* says, that the said *Elizabeth* ought not to have or maintain her action aforesaid thereof against him, because he says, that he did not assume upon himself in manner and form as the said *Elizabeth* above against him complains: And of this he puts himself upon the country: And the said *Elizabeth* thereof likewise, &c.

And

And the said *Charles* by leave of the court here, according to the form of the statute in such case lately made and provided, farther says, that the said *Elizabeth* ought not to have her action aforesaid thereof against him the said *Charles*, because he says, that he the said *Charles*, after the 24th day of *June* in the year of the Lord 1706, to wit, the 7th day of *September* in the 1st year of the reign of the Lord *George* now King, &c. at *London* aforesaid in the parish and ward aforesaid, became a bankrupt within the several statutes made against bankrupts: And the same *Charles*, according to the form of the statute lately made and provided, farther pleads and says, that the said cause of action in the declaration aforesaid above specified accrued to the said *William* in his life-time, before the said time that he the said *Charles* so as aforesaid became a bankrupt: And of this he puts himself upon the country, &c.

And the said *Elizabeth*, as to the plea of the said *Charles* last pleaded, says that well and true it is, that the said *Charles* became a bankrupt in manner and form as the said *Charles* by the plea last mentioned hath alledged; but the same *Elizabeth* farther says, that he the said *Charles*, together with the said *John* and *Thomas*, did assume upon himself in manner and form as she the said *Elizabeth* above thereof against them complains: And this she is ready to verify: And prays judgment and her damages by reason of the premisses to be adjudged to her, &c. And thereupon the same *Elizabeth* prays that the said *Charles* may rejoin to her last replication: Whereupon day is given to the said *Charles* before the Lord the King at *Westminster* until *Friday* next after the *Octave* of *St. Martin* from thence next following to rejoin, &c. On which day before the Lord the King at *Westminster* comes the said *Elizabeth* by her attorney aforesaid: And the said *Charles* on the same day solemnly called does not come, but makes default, and nothing else thereto says in bar or preclusion of the action of the said *Elizabeth* aforesaid, whereby the same *Elizabeth* remains thereto against the said *Charles* as to the last plea undefended, &c. Therefore as well to try the several issues aforesaid between the said *Elizabeth* and the said *John C. J. Foster* and *Charles Wilkinson* above joined, as to inquire what damages the said *Elizabeth* by reason of the premisses aforesaid by the said *Charles W.* has sustained, if a verdict in the plea aforesaid shall happen to be given for the said *Elizabeth*, let a jury come before the Lord the King at *Westminster* on *Wednesday* next after the *Octave* of *St. Hillary*; and who neither, &c. to recognize, &c. because as well, &c. The same day is given to the parties aforesaid, &c.

Bankruptcy.
4 Ann. c. 16.
5. 4.

Plaintiff confesses the bankruptcy, but says it was a joint contract.

Day given to that defendant to rejoin.

Who makes default.

A venire awarded as well to try the issue as to inquire of damages.

Judgment for the plaintiff, and affirmed on a writ of error in the Exchequer Chamber.
Mich. 4 Geo. 1.

Silverlock and Thompson.

WHEN, &c. And says that the said *John Thompson* ought not to have or maintain his said action thereof against him, because he says that he the same *James Silverlock*, at the time of the making of the several promises and assumptions in the declaration aforesaid above specified, was under the age of 21 years: And this he is ready to verify: Wherefore he prays judgment if the said *John Thompson* ought to have or maintain his action aforesaid thereof against him, &c.

And the said *John Thompson* says that he, by any thing by the said *James Silverlock* above in pleading alledged, ought not to be precluded from his action aforesaid against him the said *James* had, because he says, that the said 30 *l.* by the said *John* for the same *James* laid out and expended, and the said taylor's work by the same *John* done and performed, together with the materials and things necessary in and about that work used, and by the said *John* for the said *James* in form aforesaid found and provided, were laid out and expended, done and performed, found and provided for the necessary apparel and clothing of the body of the said *James*, his degree requiring the same: And this he is ready to verify: Wherefore he prays judgment and his damages aforesaid to be adjudged to him, &c.

Nonage to an action for taylor's work.
Pract. Reg. 57. 58.

Replication, that they were necessary for defendant's degree.

Edw. Noribey.

And the said *James* says, that the said 30 *l.* by the said *John* laid out and expended, and the said taylor's work by him the said *John* done and performed, together with the materials and things necessary in and about that work, and by the said *John* for the same *James* in form aforesaid found and provided, were not for the necessary apparel and clothing of the body of him the said *James* in manner and form as the said *John* above in replying thereto hath alledged: And of this he puts himself upon the country: And the said *John* thereof likewise, &c. Therefore let a jury thereon come before the Lord the

Rejoinder, that they were not necessary.

the issue.

the King at *Westminster* on next after and who neither, &c. to recognize, &c.
because as well, &c. The same day is given to the parties aforesaid there, &c.

Fr. Pemberton.

The statute
10 Ann. c. 20.
pleaded in
discharge of
the defendant
from an exe-
cution.

Must see the
act.

Repl. that he
did not remain
a prisoner.

Traverse of
the discharge.

Issue on the
traverse.

WHEN, &c. And prays *oyer* of the writing aforesaid; and to him it is read; he prays likewise *oyer* of the condition of the same writing; and to him it is read in these words, to wit, The condition of this obligation is such, &c. then this obligation to be void, or else to remain in full force. Which being read and heard, the same *John* says, that the cause of action aforesaid in the declaration aforesaid above-mentioned accrued to the said *Thomas* before the 7th day of *December* in the year of the Lord 1711, and that he cannot deny the action of the said *Thomas* aforesaid, nor but that he owes to the same *Thomas* the said 20 l. in the form in which the same *Thomas* above thereof against him has declared: But the said *John* farther says, that the said *Thomas* ought not to have execution for his debt aforesaid, or for any damages by reason of the detention of that debt, to be adjudged to him on the person of the said *John*, or of his wearing apparel, bedding for his family, and tools necessary for his trade or occupation; because he says, that he the said *John* on the said 7th day of *December* in the year of the Lord above said, and before the same day, was actually a prisoner in the prison of the said Lady the Queen of *White Chapel* in the parish of *St. Mary Matfellow*, otherwise *White Chapel*, in the county of *Middlesex*, at the suit of one *Samuel Thompson*, a creditor of him the said *John*, in a plea of trespass on the case for a true and just debt from the said *John* to the said *Samuel* then due, and before the said 7th day of *December* in the year of the Lord above said contracted; and that he the same *John*, according to the form of a certain act of parliament, made in a parliament of the said Lady the now Queen by several prorogations at *Westminster* in the county of *Middlesex* aforesaid, on the said 7th day of *December* in the 10th year of the reign of the said now Queen held, intituled, An act for the relief of insolvent debtors by obliging their creditors to accept the utmost satisfaction they are capable to make, and restoring them to their liberty, at a general quarter-sessions of the peace of the said Lady the now Queen held by adjournment in and for the county of *Middlesex* aforesaid, at *Hick's Hall* in the parish of *St. Sepulcher* in the county of *Middlesex* aforesaid, on the 17th day of *September* in the 11th year of the reign of the said Lady the now Queen, before *John Miller*, Esq; and *John Richardson*, Esq; and others their companions, justices of the said Lady the Queen, assigned to preserve the peace of the said Lady the Queen in and for the county of *Middlesex* aforesaid, was duly discharged and released from his imprisonment aforesaid: And this he is ready to verify: Wherefore the same *John* prays judgment, if the said *Thomas* ought to have his execution aforesaid on the person of him the said *John*, or of his wearing apparel, bedding for his family, and tools necessary for his trade or occupation, &c.

And the said *Thomas* says, that he by any thing before alledged ought not to be precluded from execution of his debt aforesaid and his damages, by reason of the detention of that debt, on the person of him the said *John* or of his wearing apparel, bedding for his family and tools necessary for his trade or occupation; because he says, that from the said 7th day of *December* abovementioned until his said discharge from the imprisonment aforesaid the same *John* did not remain or continue actually a prisoner in the prison aforesaid, but within the same time eloined himself from prison at *London* aforesaid in the parish and ward aforesaid; without that, that the said *John* was duly discharged from his imprisonment aforesaid, as by the plea aforesaid is above alledged: And this he is ready to verify: Wherefore he prays judgment and his debt aforesaid, together with his damages, to be adjudged to him, &c. as if the statute aforesaid had not been made.

And the said *John*, by protestation that he did not eloin himself from the prison aforesaid as the said *Thomas* above by replying hath alledged, for plea as before says, that he the same *John* was duly discharged from his imprisonment aforesaid, as by his plea aforesaid is above alledged: And of this he puts himself on the country, &c.

WHEN, &c. And says, that the said *James Leigh* ought not to have or maintain his action aforesaid thereof against him, because he says, that after the said demise of the said four closes by the indenture aforesaid by the said *James* to the same *Tristram* and *Thomas Leigh*, as is aforesaid, made, and before the said rent of 7*l.* 10*s.* by the declaration aforesaid above demanded, or any part thereof, became due or in arrear; to wit, on the first day of *March* in the year of the Lord 1668, at *Modbury* aforesaid in the county aforesaid, the same *Tristram* and *Thomas Leigh* assigned all their interest, estate and term of years of and in the closes aforesaid, with the appurtenances, to them as aforesaid demised; to one *Philip Leigh*, by virtue of which said assignment the same *Philip* was of the closes aforesaid for the residue of the term aforesaid possessed; whereof the said *James* afterwards, and before any part of the rent above demanded became due, to wit, on the fifth day of *November* in the year of the Lord 1669, at *Modbury* aforesaid in the county aforesaid had notice; and thereupon the said *Philip Leigh* then and there paid to the said *James Leigh* 6*s.* 9*d.* for the rent reserved and then in arrear, due and payable for the closes aforesaid, by virtue of the demise aforesaid, for three quarters of a year ended at the feast of *St. Michael* the Archangel then last past; which said 6*s.* 9*d.* in manner and form aforesaid paid the same *James Leigh* from the said *Philip Leigh*, as assignee of them the said *Tristram* and *Thomas*, for that rent then in arrear then and there received and accepted: And this the said *Tristram* is ready to verify: Wherefore, &c.

That the defendant assigned over his interest before any rent due:

WHEN, &c. And prays *oyer* of the writing obligatory aforesaid; and to him it is read, &c. he prays likewise *oyer* of the condition of the same writing obligatory; and to him it is read in these words, to wit, The condition of this obligation is such, that whereas, &c. then this present obligation to be void and of none effect, or else to stand, remain, abide and be in full force, power, strength and virtue: Which being read and heard, the same *Francis* says, that the said *Thomas* ought not to have his action aforesaid against him, because he says, that he the said *Francis* on the said 20th day of *October* in the 35th year of the reign of the said Lord *Charles* the Second, late King of *England*, &c. aforesaid, at *Bitton* aforesaid in the county aforesaid, paid and discharged all and all manner of taxes, dues and duties, which at the time of making of the writing obligatory aforesaid, or then before, were charged on the said lands in the condition aforesaid mentioned, or on any part thereof; and that he the said *Francis* from time to time, and at all times from the making of the writing obligatory aforesaid, until the 10th day of *October* in the 36th year of the reign of the said Lord *Charles* the Second, late King of *England*, &c. at *Bitton* aforesaid in the county aforesaid, at his own proper costs and charges paid and discharged all and all manner of taxes, dues and duties, after the making of the writing obligatory aforesaid charged on the several lands in the said condition mentioned, or on any part thereof, according to the form and effect of the condition aforesaid; and that the said *Edward* in his life-time before the said 10th day of *October* in that year, to wit, on the first day of *September* in the said 36th year of the reign of the said Lord *Charles* the Second, at *Bitton* aforesaid in the county aforesaid, surrender'd the said several parcels of land in the said condition above mentioned, and every part and parcel thereof, and his whole term and estate in the same, to *Richard Jones*, Esq; and his heirs, which said *Richard Jones* then and there accepted of the surrender aforesaid: And this the same *Francis* is ready to verify: Wherefore he prays judgment if the said *Thomas* ought to have or maintain his action aforesaid thereof against him, &c.

Conditions performed by payment of the taxes, and that the defendant surrendered the premises to R. J.

AND the said *John Clarke* by *Robert W.* his attorney comes and defends the force and injury when, &c. And says, that the said mayor and the good men of the town of *Guildford* ought not to have their action aforesaid against him, because he says, that by a certain act made and provided in a Parliament of the Lord *Charles* the Second, late King of *England*, &c. held at *Westminster* in the county of *Middlesex* in the 13th year of his reign, it was enacted by the authority of the same Parliament, among other things, that commissioners should before the twelfth day of *February* then next be issued forth under the great seal of *England* unto such persons as his said late Majesty should appoint for the executing the powers and authorities therein after expressed, and

That the defendant did not receive the sacrament pursuant to 13 Car. 2. stat. 2. cap. 1.

that all and every the persons to be named commissioners in the said commissions respectively, should by virtue of that act be commissioners respectively for and within the several cities, corporations, burroughs and cinque ports, and their members, and other port-towns within the kingdom of *England*, dominion of *Wales* and town of *Berwick upon Tweed*, for which they should be respectively nominated and appointed: And it is farther enacted by the same act by the authority aforesaid, that all persons who upon the four and twentieth day of *December* 1661 should be mayors, aldermen, recorders, bailiffs, town-clerks, common council men, and other persons then bearing any office or offices of magistracy, or places or trusts, or other employment relating to or concerning the government of the said respective cities, corporations and burroughs and cinque ports, and their members, and other port-towns, should at any time before the twenty-fifth day of *March* 1663, when they should be thereunto required by the said respective commissioners, or any three or more of them, take the oaths of allegiance and supremacy, and the oath in the same act specified, and also at the said time should publickly subscribe before the said commissioners, or any three of them, the declaration in the same act specified: And it is farther by the same act enacted by the authority aforesaid, that the said respective commissioners, or any three of them respectively, should have power, during the continuance of their respective commissions, to administer the oaths aforesaid, and tender the said declaration to the said persons thereby required to take and subscribe the same, and from and after the expiration of the said respective commissions, the said three oaths and declaration should be from time to time administer'd and tender'd to such person and persons who, by the true meaning of that act, or any clause therein contained, were to take the same by such person or persons respectively, who by the charters or usages of the said respective cities, corporations and burroughs, and cinque ports and their members, and other port-towns, ought to administer the oath for due executing the said places or offices respectively, and in default of such, by two justices of the peace of the said cities, corporations and burroughs, and cinque ports and their members, and other port-towns for the time being, if any such there be, or otherwise by two justices of the peace for the time being of the respective counties where the said cities, corporations or burroughs, or cinque ports, or their members, or other port-towns were: And it is farther enacted by the same act by the authority aforesaid, that from and after the expiration of the said commissions no person or persons should for ever thereafter be placed, elected or chosen, in or to any the offices or places aforesaid, that should not have within one year next before such election or choice taken the sacrament of the Lord's supper, according to the rites of the church of *England*; and that every such person and persons so placed, elected or chosen, should likewise take the aforesaid three oaths, and subscribe the said declaration at the same time when the oath for the due execution of the said places and offices respectively should be administer'd; and in default thereof every such placing, election and choice, is thereby enacted and declared to be void: And it is hereby enacted by the authority aforesaid, that the powers granted to the commissioners by virtue of that act should continue and be in force until the five and twentieth of *March* 1663, and no longer, as by the same act more fully appears: And the same *John Clarke* farther says, that he is, and at the time of the said election of the said *John* to be bailiff of the said town of *Guildford*, in the declaration aforesaid above supposed to be made, was a protestant subject of the said now Lord and Lady the King and Queen dissenting from the church of *England*; and that he the said *John Clarke*, at any time within one year next before the time of the election of him the said *John Clarke* to be bailiff of the said town of *Guildford* aforesaid, by the declaration aforesaid above supposed to be made, had not taken the sacrament of the Lord's supper according to the rights of the Church of *England*; wherefore by virtue of the said statute the same *John Clarke*, at the time of the election aforesaid in the declaration aforesaid above supposed to be made, was disabled and incapable to be elected to the said place or office of bailiff of the town of *Guildford* aforesaid, and the said election of the said *John Clarke* to be bailiff of the same town, by the declaration aforesaid above supposed, by virtue of the act aforesaid, was void: And this he is ready to verify: Wherefore he prays judgment if the said mayor and good men of the town of *Guildford* aforesaid ought to have their action aforesaid against him, &c.

WHEN,

WHEN, &c. And says that the said *Thomas* ought not to have or maintain his action aforesaid thereof against him; because he says that otherwise, to wit, in Easter term last past before the Lord the King at *Westminster*, came the said *John Friend* in the court of the Lord the King before the King himself, (the same court being at *Westminster*) by *William H.* his attorney, and produced in the court of the said Lord the King then there his certain bill against the said *John Freeland*, then in the custody of the marshal, &c. And there were pledges to prosecute, to wit, *John Doe* and *Richard Roe*: Which said bill follows in these words, to wit, *Suffex*, to wit, *John Friend* complains of *John Freeland* in custody of the marshal, &c. in a plea that he render to him 200 *l.* &c. so on to And therefore he then produced the suit, &c. And it was in such manner in the same court there proceeded, that the same *John Friend* afterwards in the life-time of the said *John Freeland*, in the same Easter term in the year aforesaid, by the judgment of that court recovered against the said *John Freeland* 200 *l.* for the debt, and 56 *s.* 4 *d.* for his damages which he had sustained, as well by reason of the detention of that debt, as for his costs and charges by him about his suit in that behalf expended, as by the record and proceedings thereof in the same court of the said Lord the King before the King himself at *Westminster* aforesaid remaining more fully appears: Which said judgment was and yet is in its full force, strength and effect, not reversed, annulled or satisfied: And the said *John Friend* farther says, that the said *John Freeland* in his life-time, to wit, on the 13th day of *February* in the 34th year of the reign of the Lord *Charles* the Second, late King of *England*, &c. at *Lewes*, by his certain writing obligatory acknowledged himself to be bound to one *Stephen Snatt* in 100 *l.* to be paid to the same *Stephen* when he should be thereto required; which said 100 *l.* the said *John Freeland* in his life-time, nor the said *John Friend* after the decease of the said *John Freeland*, (to whom administration of all and singular the goods and chattels, which belonged to the said *John Freeland* at the time of his death, at *Lewes* aforesaid was committed,) altho' often required, &c. had not paid, nor had either of them paid; wherefore the said *Stephen* after the death of the said *John Freeland*, to wit, in *Michaelmas* term in the 1st year of King *James* the Second, impleaded the said *John Friend* in the court of the Lord the King of the Bench, (the same court being at *Westminster* in the county of *Middlesex*,) for the said 100 *l.* and it was in such manner proceeded in the same court that the said *Stephen* afterwards, to wit, in the same *Michaelmas* term in the year aforesaid in the same court, before *Thomas Jones*, Knt. and his companions, then justices of the said Lord the King of the Bench here, to wit, at *Westminster* aforesaid, by the consideration of the same court, recovered against the said *John Friend* this debt aforesaid, and his damages by reason of the detention of that debt to 40 *s.* to the said *Stephen* with his assent by the court here adjudged, of the goods and chattels which belonged to the said *John Freeland* at the time of his death, being in the hands of the said *John Friend* to be administered, to be levied, if he had so much thereof in his hands to be administered; and if he had not so much thereof in his hands, then the damages aforesaid to be levied of the proper goods and chattels of the said *John Friend*: And the said *John Friend* in mercy, &c. Which said judgment was and yet is in its full force, strength and effect, not reversed, annulled or satisfied: And the same *John Friend* farther says, that in the said *Michaelmas* term in the year aforesaid, in the same court of the Lord the King of the Bench here, to wit, at *Westminster* aforesaid in the county aforesaid, one *Sackville Tuston*, Esq; impleaded the same *John* in a plea that he should render to him 45 *l.* which he unjustly detained from him, &c. And whereon the same *Sackville* by *J. Alcocke* his attorney said, that whereas the said *Sackville* in the life-time of the said *John Freeland*, to wit, on the 28th day of *September* in the 34th year of the reign of the Lord *Charles* the Second, late King of *England*, &c. at *Eastgrimstead* in the county aforesaid, had demised to the said *John Freeland* the moiety of a messuage, barn and certain Lands, containing by estimation 120 acres more or less, with the appurtenances in the common fields of *Brightbelmstone*; to have and to hold to the said *John Freeland* from thence until the end of one year from thence next following, and so from year to year as long as both parties should please; yielding therefore yearly and every year, as long as the said *John Freeland* should have and hold the tenements aforesaid by virtue of that demise, 45 *l.* of lawful money of *England* to the said *Sackville*: By virtue of which demise the said *John Freeland* afterwards in his life-time, to wit, on the twenty-ninth day of the same month of *September* in the thirty-fourth year of the reign of the said late King aforesaid, into the tenements aforesaid with the appurtenances entered, and was thereof possessed, and the same tenements in his life-time had and held from thence until the twenty-ninth day of *September* in the first year of the reign of the Lord the now King aforesaid, and 45 *l.* of the rent aforesaid, for the tenements aforesaid with the appurtenances, at the same feast for one whole year in the life-time of the said *John Freeland* to the said *Sackville*, were in arrear and unpaid, whereby the action accrued to the same *Sackville* to demand and have of the said *John Freeland*

By an administrator by judgment against the intestate on a Murnan in the King's Bench.

Another judgment on a bond against the defendant in the Common Pleas.

Another judgment in debt for rent arrear in the intestate's time in the Common Pleas.

in his life-time the said 45*l.* Nevertheless the said *John Freeland* in his life-time, and the said *John Friend* after the death of the said *John Freeland*, altho' often required, &c. the same 45*l.* to the said *Sackville* had not rendered, but the said *John Freeland* in his life-time, and the said *John Friend* after the death of the said *John Freeland*, (to whom administration of the goods and chattels which belonged to the said *John Freeland* after the death of the said *John Freeland* was duly committed,) had refused to render him the same; and the said *John Friend* then refused to pay him them; whereby the said *Sackville* says that he was prejudiced, and had damage to the value of 10*l.* And therefore he produced the suit, &c. And it was in such manner in the same court of the Lord the King of the Bench proceeded, that the same *Sackville* afterwards, to wit, in the same *Michaelmas* term in the year above-said, in the same court before *T. Jones*, Knt. and his companions, then justices of the Bench here, to wit, at *Westminster* aforesaid, by consideration of the same court recovered against the said *John Friend* his debt aforesaid, and his damages by reason of the detention of that debt, to 50*s.* to the same *Sackville* by his assent by the court here adjudged, to be levied of the goods and chattels which belonged to the said *John Freeland* at the time of his death, being in the hands of the said *J. Friend* to be administered, if he had so much thereof in his hands to be administered; and if he had not so much in his hands, then the damages aforesaid to be levied of the proper goods and chattels of the said *John Friend*: And the same *John Friend* in mercy, &c. Which said judgment was and yet is in its full force and effect, not reversed, annulled or satisfied: And the same *John Friend* farther says, that he hath fully administered all the goods and chattels which belonged to the said *John Freeland* at the time of his death; and that he hath not, nor at the time of the exhibition of the bill of the said *Thomas Woolger* aforesaid or ever after had, any goods or chattels which belonged to the said *John Freeland* at the time of his death in his hands to be administered, except goods and chattels to the value of 5*l.* and not more, which are liable to the payment of the said several sums of money by the said several judgments recovered: And this he is ready to verify: Wherefore he prays judgment if the said *Thomas Woolger* ought to have his action aforesaid thereof against him; with this, that the said *John Friend* will verify, that the said *John Friend* in the several judgments named, and the said *John Friend* in the declaration aforesaid above-named, are one and the same person, and not other nor divers, &c.

Fully administered.
Pract. Reg.
567, 568.

Except 5*l.*

Averment of identity.

Nothing by Descent except a reversion.

27H. 8. c. 10.

WHEN, &c. And says that he cannot deny the action of the said *George* aforesaid, nor but that the writing aforesaid is the deed of the said *John* his brother, nor but that he is the brother and heir of the said *John*, nor but that he owes to the said *George* the said 100*l.* in the form in which the said *G.* above against him hath declared; but the said *Samuel* says, that long before the making of the writing aforesaid, to wit, on the first day of *April* in the year of the Lord 1655, one *Samuel Briddon*, the grandfather of the said *Samuel* now defendant, was seised of three messuages, one cottage and 100 acres of land, lying and being in *Youlgrave* in the county aforesaid, in his demean as of fee, and so being thereof seised the same *S. B.* the grandfather, before the making of the writing aforesaid, to wit, the same day and year at *Youlgrave* aforesaid, by his deed sealed enfeofed one *Robert Bateman* of the messuages and tenements aforesaid with the appurtenances, to have and to hold to the said *Robert Bateman* and his heirs, to the use of the said *S. B.* the grandfather for the term of his life, without impeachment of any waste; and after his decease, then as to the use of a moiety thereof to the use of one *Anne Bateman* for the term of her life; and after the several deaths of the said *S. B.* the grandfather and *Anne*, the said several estates being determined, then to the use of the heirs male of the body of the said *S. B.* the grandfather on the body of the said *Anne* lawfully to be begotten; and for want of such issue, to the use of the heirs female of the body of the said *S. B.* the grandfather on the body of the said *Anne* lawfully to be begotten; and for want of such issue, then to the use of the right heirs of the said *S. B.* the grandfather for ever: By virtue of which said feoffment, and by force of a certain act made and provided in a parliament of the Lord *Henry* the eighth, late King of *England*, held at *Westminster* in the county of *Middlesex* on the fourth day of *February* in the 27th year of his reign for transferring uses into possession, the same *S. B.* the grandfather was seised of the said messuages and tenements with the appurtenances in his demean as of freehold for the term of his life, the remainder thereof over expectant, as above in form aforesaid is limited; and so being thereof seised the said *S. B.* the grandfather afterwards, and before the making of the said writing, to wit, on the 1st day of *May* in the year of the Lord 1656, at *Youlgrave* aforesaid, had issue male of his body, on the body of the said *Anne* lawfully begotten, the said *John* his elder son and him the said *Samuel* his younger son, and afterwards, to wit, on the first day of *June* in the year of the Lord 1675, the said *S. B.* the grandfather and the said *Anne* at *Youlgrave* aforesaid in the county aforesaid died of such their estate so therein seised, after whose death the said *John* into the said messuages and tenements aforesaid with the appurtenances entered, and was thereof seised
in

in his demesne as of fee-tail, to wit, to him and the heirs of his body lawfully begotten; the remainder thereof over as above is limited in form aforesaid expectant, the reversiſh thereof to the ſame *John* and his heirs expectant; and ſo being thereof ſeiſed the ſame *John* afterwards, to wit, on the firſt day of *May* in the year of the Lord 1685, at *Toulgrave* aforesaid in the county aforesaid, of ſuch his eſtate died thereof ſeiſed without iſſue of his body begotten; after whoſe death the ſaid *Samuel*, the now defendant, into the meſſuages and tenements aforesaid with the appurtenances entred, and was and yet is ſeiſed thereof in his demesne as of fee-tail, to wit, to him and the heirs of his body lawfully to be begotten; the remainder thereof over as above in form aforesaid is limited expectant: And the ſaid *S.* the now defendant, farther ſays, that he the ſaid *Samuel*, the now defendant, hath not any lands or tenements by hereditary deſcent from the ſaid *John* his brother in fee-ſimple, nor had on the day of the iſſuing of the original writ in this behalf; nor ever after, except the ſaid reversion in fee-ſimple on the ſaid eſtate-tail, whereof the ſaid *Samuel Briddon* the grandfather infeoffed the ſaid *Robert Bateman* in form aforesaid, which ſaid reversion deſcended to the ſaid *Samuel* as brother and heir of the ſaid *John* by hereditary right in fee-ſimple; and except one cottage, one garden, and one acre of land, with the appurtenances, in *Toulgrave* aforesaid in the county aforesaid: And this he is ready to verify: Wherefore he prays judgment if he the ſaid *Samuel*, the now defendant, as brother and heir of the ſaid *John* his brother, with the debt aforesaid, except from the ſaid reversion of the meſſuages and tenements aforesaid, whereof the ſaid *Samuel Briddon* the grandfather infeoffed the ſaid *Robert Bateman* in form aforesaid, and in the ſaid one cottage, one garden, and one acre of land, with the appurtenances, in *Toulgrave* aforesaid, by virtue of the writing aforesaid ought to be charged, &c.

AND the ſaid *Mary* and *Dorothy* by *A. B.* their attorney come and defend the force and injury when, &c. And ſay, that they the ſaid *Mary* and *Dorothy* of and upon the promiſes aforesaid ought not to be charged; becauſe they ſay, that by a certain act made and provided in a Parliament of the Lord *Charles* the Second, late King of *England*, &c. begun and held at *Weſtmiſter* the 25th day of *April* in the 12th year of his reign, among other things it is enacted by the authority of the ſame Parliament, that no perſon or perſons whatſoever from and after the 29th day of *September* in the year of our Lord 1660, upon any contract ſhall from and after the ſaid 29th day of *September* take directly or indirectly for loan of any monies, wares, merchandize or other commodities whatſoever, above the value of 6*l.* for the forbearance of 100*l.* for a year, and ſo after that rate for a greater or leſſer ſum, or for a longer or ſhorter time: And that all bonds, contracts and aſſurances whatſoever made after the time aforesaid for payment of any principal, or money to be lent or covenanted to be performed, upon or for any uſury whereupon or whereby there ſhould be reſerved or taken above the rate of 6*l.* in the hundred, as aforesaid, ſhould be utterly void, as in the ſame act, among other things, more fully is contained: And the ſame *Mary* and *Dorothy* ſay farther, that after the making of the ſaid act, and after the ſaid 29th day of *September* in the year of the Lord 1660, to wit, on the 23d day of *May* in the year of the Lord 1695 at *Weſtmiſter* in the county aforesaid, it was corruptly agreed between the ſaid *Ward* and the ſaid *Mary* and *Dorothy*, that the ſaid *Ward* ſhould accommodate and lend the ſaid *Mary* and *Dorothy* the ſum of 18*l.* and ſhould give day for the payment thereof until the firſt day of *October* next following; and that the ſaid *Mary* and *Dorothy*, for the loan of the ſame 18*l.* and for giving day of payment thereof for the time aforesaid, ſhould give and pay to the ſaid *Ward* the ſum of 30*s.* of lawful money of *England* on the ſaid firſt day of *October* then next following for the gain and intereſt thereof, and for giving day of payment of the ſaid 18*l.* whereupon the ſaid *Ward* in performance of that corrupt agreement afterwards, to wit, on the ſaid 23d day of *May* in the year and place in the declaration aforesaid above mentioned, did accommodate and lend the ſaid *Mary* and *Dorothy* the ſaid 18*l.* and gave day for the payment thereof until the ſaid firſt day of *October* then next following; and thereupon the ſaid *Mary* and *Dorothy* then and there, to wit, on the ſaid 23d day of *May* in the year and place in the declaration aforesaid abovementioned did pay to the ſaid *Ward* the ſaid ſum of 30*s.* for the gain and intereſt of the ſaid 18*l.* and for giving day for the payment thereof upon the ſaid firſt day of *October* next following, in performance and fulfilling, and according to the form and effect of the corrupt agreement aforesaid: And the ſame *Mary* and *Dorothy* farther ſay in fact, that the ſaid 30*s.* for the intereſt and giving day of payment of the ſaid 18*l.* for the time aforesaid exceed the rate or ſum of 6*l.* for 100*l.* for one whole year; whereby the promiſes and aſſumptions in the declaration aforesaid abovementioned, by virtue of the ſtatute aforesaid, are void in law: And this they are ready to verify: Wherefore they pray judgment if they of and upon the promiſes and aſſumptions aforesaid ought to be charged, &c.

Bar by ſtat.
12 Car. 2.
c. 13. of uſury.
Pract. Reg.
671, 674.

G g

T. Caribw.
WHICH

See Pract.
Regist. 287
to 293, 318.
Conditions
performed to
a bond of ap-
prenticeship.

Breach, that
he received
40 l. of his
master's mo-
ney which he
wasted.

Rejoinder,
that he did
not waste, and
issue thereon.

That he ap-
peared at the
day in K. B.

Repl. that
there is no
such record.

Rejoinder that
there is such
record.

WHICH being read and heard the same *Charles* says, that the said *Henry* ought not to have or maintain his action aforesaid thereof against him, because he says, that he from the time of the making of the writing obligatory aforesaid hitherto hath well and faithfully observed, performed and fulfilled all and every thing in the condition aforesaid mentioned on his part to be performed, observed and fulfilled, according to the form and effect of the said condition, to wit, at *London* aforesaid in the parish and ward aforesaid; And this he is ready to verify: Wherefore he prays judgment if the said *Henry* ought to have or maintain his action aforesaid thereof against him, &c.

And the said *Henry* says, that he by any thing by the said *Charles* above in pleading alledged ought not to be precluded from his action aforesaid thereof against him the said *Charles* had, because he says, that after the making of the bond aforesaid, and during the time in which the same *John Foster* remain'd in the service of the said *Henry*, to wit, on the first day of *February* in the 36th year of *Charles* the Second aforesaid, at *London* aforesaid in the parish and ward aforesaid, he the said *John Foster* had and received of the money of the said *Henry* the sum of 40 l. by him the said *John*, as servant of him the said *Henry*, to be paid; and that the said *John Foster* the same 40 l. then and there eloin'd, wasted, and from the said *Henry* unjustly detained, and to the use of him the said *John* then and there converted and disposed; whereof he the said *Henry* afterwards, to wit, on the first day of *May* in the first year of the reign of the Lord and Lady the now King and Queen, at *London* aforesaid in the parish and ward aforesaid, gave notice to the same *Charles*, and then and there required him the said *Charles* to pay him the said *Henry* the same 40 l. and that the said *Charles* then absolutely denied, and yet doth deny, to pay the said *Henry* the same 40 l. And this he is ready to verify: Wherefore he prays judgment and his debt aforesaid, together with his damages by reason of the detention of that debt, to be adjudged to him, &c.

And the said *Charles* says, that the said *John Foster* did not eloin, waste, detain, nor to his own proper use convert and dispose the said 40 l. of the money of him the said *Henry*, or any penny thereof, in manner and form as the said *Henry* above thereof in replying hath alledged: And of this he puts himself upon the country, and the said *Henry* likewise, &c. Therefore let a jury thereon come before the Lord and Lady the King and Queen at *Westminster* on next after and who neither, &c. to recognize, &c. because as well, &c. The same day is given to the parties aforesaid there, &c.

WHEN, &c. And prays oyer of the writing obligatory aforesaid; and to him it is read; and he likewise prays oyer of the condition of the same writing obligatory; and to him it is read in these words: The condition of this obligation is such, that if the above-bound *Amos Bodley* do appear before the said Lord and Lady the King and Queen at *Westminster* on *Wednesday* next after three weeks of the Holy *Trinity*, to answer to *John Doble*, Esq; in a plea of trespass, and also to the bill of the said *John* against the said *Amos* for 60 l. for a debt, according to the custom of the court of the said Lord and Lady the King and Queen before the King and Queen themselves to be exhibited, then this present obligation to be void and of no effect, otherwise to remain in its full force, strength and effect: Which being read and heard, the same *Amos* says, that the said *Hugh* ought not to have or maintain his action aforesaid thereof against him, because he says, that after the making of the writing obligatory aforesaid, and before the day of the exhibition of the bill aforesaid, to wit, on the said *Wednesday* next after three weeks of the Holy *Trinity*, in the condition aforesaid above mentioned, he the same *Amos* appeared before the said Lord and Lady the King and Queen at *Westminster*, to answer to the said *John Doble* in the plea and bill aforesaid, according to the form and effect of the condition aforesaid: And this he is ready to verify by the record thereof in the court of the said Lord and Lady the King and Queen before the Lord and Lady the King and Queen themselves at *Westminster* aforesaid remaining: Wherefore he prays judgment if the said *Hugh* ought to have or maintain his action aforesaid thereof against him, &c.

And the said *Hugh* says, that he by any thing by the said *Amos* above in pleading alledged ought not to be precluded from his action aforesaid thereof against him the said *Amos* had, because he says, that there is not any such record of appearance by the said *Amos* made before the said Lord and Lady the King and Queen at *Westminster* aforesaid on record remaining, as the same *Amos* above by pleading hath alledged: And this he is ready to verify: Wherefore he prays judgment if he the said *Hugh* ought to be precluded from his action aforesaid thereof against the said *Amos* had, &c.

And the said *Amos* as before says, that there is such record of the appearance of him the said *Amos* before the said Lord and Lady the King and Queen at *Westminster* on record remaining, as the same *Amos* above in pleading hath alledged: And this he is ready to verify by that record: And the same *Amos* is order'd to have that record before the said Lord and Lady

Lady the King and Queen at *Westminster* on
same day is given to the said *Hugh* there, &c.

next after

at his peril: The

WHEN, &c. And says, that he well and truly hath kept and performed all and Conditions every the covenants, grants, articles, clauses, provisoes, payments, conditions and performed to agreements in the same articles contained; which on the part of him the said *Dalby Thomas* articles. were to be kept and performed according to the form and effect of the bargain and sale afore said: And this he is ready to verify: Wherefore he prays judgment if the said Lady *Eleanor* ought to have or maintain her action afore said thereof against him, &c.

And the said Lady *Eleanor* says, that she by any thing by the said *Dalby Thomas* above Breach in non- in pleading alledged ought not to be precluded from her action afore said thereof against payment of him had, because she says, that the said *Dalby Thomas* did not pay to the said Lady *Eleanor* 34 l. 10 s. *Holles* the said 34 l. 10 s. in manner and form as the said *Dalby* above by pleading hath al- ledged: And this she prays may be inquired of by the country.

And the said *Dalby Thomas* says, that the plea afore said by the said Lady *Eleanor Holles* Demurrer. above by replying pleaded, and the matter in the same contained; are not sufficient in law for the said Lady *Eleanor* to maintain her action afore said thereof against him had, to which the same *Dalby* hath no necessity, nor is by the law of the land obliged, in any wise to answer: And this he is ready to verify: Wherefore for want of a sufficient replica- tion in this behalf, the same *Dalby* as before prays judgment, and that the said Lady *Eleanor* may be precluded from her action afore said thereof against him the said *Dalby* had, &c.

And the said Lady *Eleanor Holles* says, that the plea afore said by her the said Lady *Eleanor* in manner and form above said above in replying pleaded, and the matter in the same contained, are good and sufficient in law to maintain the action of her the said Lady *Eleanor* afore said thereof against the said *Dalby* had; which said plea, and the matter therein contained, she the said Lady *Eleanor* is ready to verify and prove, as the court, &c. And because the said *Dalby* to that replication doth not answer, nor hitherto any way deny the same, she the said Lady *Eleanor* prays judgment and her debt afore said, together with her damages by reason of the detention of that debt, to be adjudged to her: But because the court of the said Lord and Lady the King and Queen now here are not yet advised to give their judgment of and upon the premisses, day is given to the parties afore said before Contin'. the Lord and Lady the King and Queen, until day next after to hear their judgment of and upon those premisses, because the court of the said Lord and Lady the King and Queen now hereof thereof not yet, &c.

Payne at the suit of Payne.

WHEN, &c. And prays *oyer* of the writing obligatory afore said; and to him it is Conditions read; he likewise prays *oyer* of the condition of the same writing; and to him performed specially. it is read in these words, to wit, The condition of this obligation is such, that if the above- bounden *Robert Payne*, his executors and administrators, shall and do well and truly ob- serve, perform, fulfil, accomplish, pay and keep all and singular the covenants, grants, articles, clauses, provisoes, payments, conditions and agreements whatsoever, which on the part and behalf of the said *Robert Payne*, his executors and administrators, are or ought to be observed, performed, fulfilled, accomplished, paid and kept, comprized or mentioned in one pair of indentures, bearing even date with these presents, made and expressed to be made between the said *Robert Payne* of the one part, and the said Dame *Alice Payne* of the other part, in all things according to the true intent and meaning of the same pair of in- dentures, then this present obligation to be void and of none effect, or else to be and re- main in full force and virtue: Which being read and heard, the same *Robert* says, that the said *Alice* ought not to have or maintain her action afore said thereof against him, because he says, that the indentures afore said in the condition afore said above specified were made at the parish of *St. Martin in the Fields* afore said in the county of *Middlesex* afore said, on the said 15th day of *April* in the 33d year of the reign of the Lord *Charles* the Second, late King of *England*, &c. afore said, between the same *Robert Payne*, by the name of *Robert Payne* of the *Inner Temple*, *London*, Esq; of the one part, and the said *Alice Payne*, by the name of Dame *Alice Payne*, relict of *John Payne* late of *Stratford* in the county of *Hereford*, Knt. deceased, of the other part; which other part sealed with the seal of the said *Alice Payne* the same *Robert* here in court produces, the date whereof is the same day and year; in which said indenture reciting, that whereas the said *John Payne*, Knt. the father of the same *Robert Payne*, by his indenture bearing date the eleventh day of *November* in the year of the Lord 1664, and in the 16th year of the reign of the Lord King *Charles*

Charles the Second, for the consideration in the same indenture mentioned, had granted, bargained and sold to the same *Robert Payne* all those two closes or parcels of land or meadow, called *Lincoln's Meadow*, containing by estimation eleven acres and two rods, be they more or less; which said closes of meadow then or late before were in the tenure or occupation of *Robert Stephens*; his assigns or under-tenants, and were situate, lying and being in the parish and manor of *Lemster* in the same county of *Hereford*, and also all and singular his messuages, lands, tenements and hereditaments, by or of what names, natures, qualities, or number of acres soever the same or any of them were called or contained, situate, lying and being within the several parishes, towns, hamlets or precincts of *Lemster* aforesaid, and of *Stoke Docklove* and *Kimbolton* in the same county of *Hereford*, or in any or either of them, and all and singular other the messuages, lands, tenements and hereditaments of him the said *John Payne*, Knt. situate, lying and being in the same county of *Hereford*; and all houses, edifices, erections, buildings, barns, stables, dove-houses, mills, orchards, gardens, court-yards, curtilages, yards, backsides, meadows, pastures, leasowes, fields, commons, commons of pasture, estovers, common of estovers, wastes, waste lands, woods, underwoods, coppices, timber-trees, and all other trees, aqueducts, water-courses, pools, fisheries, ways, paths, easements, profits, commodities, privileges, benefits, emoluments, and appurtenances whatsoever to the same closes, lands, tenements and hereditaments, or any or either of them, or to any part or parcel of them incident, appendant, or in any wise belonging or appertaining, or ever before demised, held, or usually or commonly enjoyed with the same, or accepted, adjudged, reputed or taken as part, parcel or member thereof, or with the same enjoyed, with their and every of their appurtenances, and the reversion and reversions, remainder and remainders, rents and services of all and singular the premises; To have and to hold the said closes, messuages, lands, tenements and hereditaments, with their and every of their appurtenances to the said *Robert Payne*, his executors, administrators and assigns, from the 29th day of *September* then last past unto the full end and term of one year fully to be compleat and ended, at and under the yearly rent of 1 *d.* (if the same should be lawfully demanded): And reciting also, that whereas the said *John Payne*, Knt. by his indenture bearing date the 12th day of *September* in the year of the Lord 1664 aforesaid, for the consideration therein mentioned had granted, released, aliened and confirmed to the said *Robert Payne* all and singular the closes, messuages, lands, tenements and hereditaments, and other the premises aforesaid in and by the said recited indenture granted, bargained and sold, with their and every of their appurtenances, and all his estate, right, title, interest, use, trust, possession, property, claim and demand whatsoever of him the said *John Payne*, Knt. in and to the same, or any part, parcel or member thereof; To have and to hold the said closes, messuages, lands, tenements and hereditaments, and all and singular other the premises in and by the same indenture meant, mentioned or intended to be granted, bargained or sold, released, aliened and confirmed to the said *Robert Payne* and his heirs, to the use, intent and purpose, in the same indenture limited and declared, that is to say, to the use of the said *John Payne*, Knt. and his assigns for the term of his natural life, without impeachment of waste, and after his decease, to the use of the said *Robert Payne*, his heirs and assigns for ever: And by the said indenture it is witnessed, that *Robert Payne*, for and in consideration of 5 *s.* in hand paid, the receipt whereof he acknowledged and thereof acquitted the said Dame *Alice*, and also in consideration of the release of her right, being administratrix of her late husband the said *John Payne*, Knt. and in full recompence, satisfaction and discharge of all her right and title of dower of, in and to the messuages, lands, tenements and hereditaments of the said *John Payne*, Knt. and for other good causes and considerations, had demised, granted and to farm letten, and by the same indenture did demise, grant and to farm let, to the said Dame *Alice* all the lands, tenements and hereditaments before recited or contained in the deeds of demise and release before mentioned; To have and to hold the said demised premises, and every part and parcel thereof with the appurtenances, to the said Dame *Alice*, her executors and assigns, from the day of the date of the said indenture unto the full end and term of 500 years from thence next and immediately following and fully to be compleat and ended; yielding and paying yearly and every year during the said term, at the Annunciation of the blessed virgin *Mary*, to the said *Robert Payne*, his heirs and assigns, the rent of one pepper-corn, (if the same should be lawfully demanded): And the said *Robert Payne* for himself, his heirs and executors, did covenant and promise to and with the said Dame *Alice*, her executors and administrators by the said indenture, that he the said *Robert Payne* was lawfully seised of a good and perfect estate in fee-simple in the premises in the said indenture before mentioned, and had good power and authority to make the said demise and grant: Provided nevertheless, and under the condition in the said indenture contained

contained, that if the said *Robert Payne*, his heirs, executors or assigns, should yearly and every year, during the life of the said Dame *Alice Payne*, well and truly pay or cause to be paid to the said Dame *Alice Payne* at or in the common dining-hall of the *Inner Temple, London*, the yearly sum of 100*l.* of lawful money of *England* by two equal payments in the year, at the feast of the birth of our Lord God and the nativity of *St. John* the baptist; the first payment thereof to be at the feast of the birth of our Lord God next following the date of the said indenture, without any deduction, defalcation or abatement of or from the same, or any part or parcel thereof, for or in respect of any taxes or impositions ordinary or extraordinary, or any other matter, cause or thing whatsoever, then the said demise and all the estate, title and interest of the said Dame *Alice Payne* in and to the said messuages, lands, tenements and hereditaments, should be null and void to all intents and purposes: And the said *Robert Payne* by the said indenture for himself, his heirs and executors, did covenant, promise and agree to and with the said Dame *Alice Payne*, that he the said *Robert Payne*, his heirs executors, or assigns, or one of them, would well and truly pay or cause to be paid to the said Dame *Alice Payne* the said yearly sum of 100*l.* without any deduction or defalcation whatsoever in manner and form aforesaid: And it was farther agreed, that in the mean time, and until some breach of the said covenant should happen to be made, it should be lawful for the said *Robert Payne*, his heirs, executors and assigns respectively, to hold and enjoy the said respective premises without the lawful impediment, suit, denial or interruption of the said Dame *Alice Payne* or any person claiming under her, as by the same indenture more fully appears; which are all the covenants, grants, articles, clauses, proviso's, payments, conditions and agreements whatsoever in the indenture aforesaid contained: And the same *Robert Payne*, from the time of the making of the indenture aforesaid unto the day of the exhibition of the bill aforesaid of her the said *Alice* in this behalf, hath well and truly observed, performed, fulfilled, paid and kept all and singular the covenants, grants, articles, clauses, proviso's, payments, conditions and agreements on the part of him the said *Robert* to be observed, performed, fulfilled, paid and kept according to the form and effect of the indenture aforesaid here in court produced: And this the same *Robert Payne* is ready to verify: Wherefore he prays judgment if the said *Alice* ought to have or maintain her action aforesaid thereof against him, &c.

And the said *Alice* says, that she by any thing by the said *Robert* above in pleading alledged ought not to be precluded from her action aforesaid against the said *Robert* had, because by protesting that the said *Robert Payne* hath not performed, observed, fulfilled, paid or kept any covenants, grants, articles, clauses, proviso's, payments, conditions or agreements in the indenture aforesaid contained on his part to be observed, performed, fulfilled, paid and kept according to the form and effect of the indenture aforesaid, for plea the same *Alice* says, that the said *Robert* hath not paid to the same *Alice* 50*l.* on the feast of the birth of our Lord in the second year of the reign of the Lady the now Queen, which he ought to have paid her on that feast according to the tenor of the indenture aforesaid: And this she is ready to verify: Wherefore she prays judgment and her debt aforesaid, together with her damages by reason of the detention of that debt, to be to her adjudged, &c.

And the said *Robert Payne* says, that he the said *Robert*, in and upon the said feast-day Tender of the birth of our Lord in the replication of her the said *Alice* above mentioned, offered 5 Co. 114. to pay the same *Alice* the said 50*l.* in the common dining-hall of the *Inner Temple, London*, to wit, at the parish of *St. Martin in the Fields* in the county of *Middlesex* aforesaid, according to the form and effect of the indenture aforesaid, and that no person on the behalf of the said *Alice* then and there came to receive that money: And this the same *Robert* is ready to verify: Wherefore as before he prays judgment, and that the said *Alice* may be precluded from her action aforesaid thereof against him the said *Robert Payne* had, &c.

AND the said *Richard Turner* by *John Allen* his attorney comes and defends the Bar by judgment in C. B. force and injury when, &c. And says that otherwise, to wit, in *Easter* term in the seventh year of the reign of the now Queen, &c. in the court of the Common Bench, in debt against the testator. (the same court being at *Westminster* in the county of *Middlesex*.) before *Thomas Trevor*, Knt. and his companions, then justices of the same court, he the same *Richard*, and the before mentioned *John Turner* now deceased in his life-time, by the consideration of the same court recovered against the said *William Bysbe* late of *Pycombe* in the county of *Suffex*, Gent. in his life-time, by the name of *William Bysbe* late of *Pycombe* in the county aforesaid, Gent. otherwise called, &c. as well a certain debt of 1000*l.* as 50*s.* which to the same *Richard* and *John Turner* by their assent by the same court there were adjudged for their damages

Averment
that it was
for a just
debt.
Hath fully
administred.
1 Show. 272.

Except 201.

damages which they had sustained by reason of the detention of that debt, whereof the said *William Bysbe* then in the same court was convicted, as by the record and process thereof in the same court of Common Bench at *Westminster* aforesaid in the county aforesaid remaining more fully appears: Which said judgment, against the said *William Bysbe* in his life-time so as aforesaid obtained, was for a just and true debt to the said *Richard* and *John Turner* by the same *William Bysbe* in his life-time due and then unpaid, and doth yet in its full force remain on record, being not reversed, annulled or satisfied: And the said *Richard* says, that he hath fully administred all and singular the goods and chattels which belonged to the said *William Bysbe* at the time of his death in his hands to be administred, and that he hath not any goods or chattels which belonged to the said *William Bysbe* at the time of his death in his hands to be administred, nor had on the day of the exhibition of the bill aforesaid of him the said *Thomas*, nor ever after, except goods and chattels to the value of 20*l.* which are charged and bound with the execution of the judgment aforesaid: And this the same *Richard* is ready to verify: Wherefore he prays judgment if the said *Thomas* ought to have or maintain his action aforesaid thereof against him, &c. with this, that the same *Richard* will verify that the said *William Bysbe* in the judgment aforesaid above mentioned defendant, and the said *William Bysbe* in the bill of the said *Thomas* above named testator, are one and the same person, and not other nor diverse.

Tbo. Pengelly.

Adams at the suit of Reiley and another.

Conditions
performed
pleaded specially to a
bond for performance of
covenants in a
lease of the
glebe land
and tithes of
a rectory.

WHEN, &c. And prays oyer of the writing obligatory aforesaid; and to him it is read, &c. he likewise prays oyer of the condition of the same writing; and to him it is read in these words, to wit, Whereas the above mentioned *George Adams* hath by his deed of demise, &c. then the above written obligation shall be void, or else it shall stand in full force and virtue in law: Which being read and heard, the same *George* says, that the said *James* and *Silvester* ought not to have or maintain their action aforesaid against him, because he says, that the indenture aforesaid in the condition above specified was made the day and year aforesaid, at *London* aforesaid in the parish and ward aforesaid, between the said *George*, by the name of *George Adams*, clerk, and rector of *Killsker* in the county of *Meath*, of the one part, and the said *James* and *Silvester*, by the names of *James Reily* in the county of *West Meath*, Esq; and *Silvester Reily* of *Miltowne* in the county of *Meath*, Gent. of the other part; which other part sealed with the seals of the said *James* and *Silvester* the said *George* produces here in court, the date whereof is the same day and year: By which said indenture the said *George*, for and in consideration of the yearly rent and covenants after in the same indenture reserved and contained, and for divers other good and valuable considerations the said *George* thereto moving, had demised, granted, set and to farm let, and by the same indenture did demise, grant, set and to farm let, to the said *James* and *Silvester* all and singular the glebe lands to the rectory of the said parish church belonging, and also all those tithes of grain, hay, lambs and wool, and all other tithes whatsoever, as well great as small, due and accruing, and which should be due and accrue from the said rectory, and from every part and parcel thereof; To have and to hold all and singular the said glebe lands and the said tithes, as well great as small, with their and every of their appurtenances, to the said *James* and *Silvester*, their executors, administrators and assigns, from the first day of *May* then last past for and during the full term and time of 51 years from thence next ensuing and fully to be compleat and ended, if the said *George* should so long live; the said *James* and *Silvester* yielding and paying therefore and thereout yearly and every year during the said term unto the said *George*, his executors, administrators or assigns, the yearly rent of 12*l.* 10*s.* sterling for the first five years of the said term, and the yearly rent of 60*l.* sterling for the remaining part of the said term, on the feast of *All Saints* and of *St. Philip* and *Jacob* yearly by equal portions; the first payment thereof to be made on the feast of *All Saints* next ensuing the date of the said indenture: And the said *James* and *Silvester* for themselves, their executors, administrators and assigns, did covenant, grant and agree, to and with the said *George*, his heirs, executors, administrators and assigns, that they the said *James* and *Silvester*, their executors, administrators and assigns, should and would from time to time pay the said reversed yearly rent of 12*l.* 10*s.* sterling for the said first five years of the said term, and the yearly rent of 60*l.* sterling during the remaining part of the said term, at the feasts aforesaid yearly and every year by equal portions: And the said *George* for himself, his heirs, executors, administrators and assigns, did by the said indenture covenant, grant and agree, to and with the said *James* and *Silvester*, their executors, administrators and assigns, that it might and should be lawful to and for the said *James* and *Silvester*, their executors, administrators and assigns, to have, hold, possess and

and enjoy from time to time during the said term, and to their own proper use and behoof to take, all and singular the glebe lands and tithes, as well great as small, which should accrue or be due from or out of the said rectory, and from or out of any part thereof; and the said George did by the said indenture bind himself, his heirs, executors, administrators and assigns, in the penalty of 500*l.* that they the said James and Silvester, their executors, administrators and assigns, should have, hold and quietly enjoy the glebe lands and tithes aforesaid, as well great as small, of the rectory, church and parish aforesaid during the said term: And the said George did by the indenture aforesaid warrant and defend the same to the said James and Silvester, their executors, administrators and assigns, for and during the said term, as by the said indenture more fully appears; which are all and singular the covenants, provisions and agreements in the said indenture mentioned and contained; and the said George says, that he from the time of making of the indenture aforesaid hitherto hath well and faithfully observed, performed, fulfilled and kept all and singular the covenants, payments, provisions and agreements in the indenture aforesaid above specified, on his part to be observed, performed, fulfilled and kept, according to the form and effect of the indenture aforesaid: And this he is ready to verify: Wherefore he prays judgment if the said George and Silvester ought to have or maintain their action aforesaid against him, &c.

And the said James and Silvester say, that they by any thing by the said George above in pleading alledged ought not to be precluded from their action aforesaid thereof against him had; because by protesting that the said George hath not performed, fulfilled or kept any of the covenants, payments, provisions or agreements aforesaid, on the part of the said George to be observed, performed, fulfilled and kept, according to the form and effect of the indenture aforesaid, as the said George above by pleading hath alledged, the same James and Silvester for plea say, that after the making of the indenture aforesaid, and before the day of the exhibition of the bill aforesaid, to wit, on the 20th day of May in the year of our Lord 1703, the said George Adams the church and rectory of Killsker aforesaid into the hands of the reverend father in Christ Edward, then Lord bishop of Meath in the kingdom of Ireland, of the rectory and church aforesaid ordinary, at London aforesaid in the parish and ward aforesaid spontaneously resigned, and by the same resignation that church became vacant: And the said James and Silvester say, that they could not quietly enjoy, have and possess the glebe lands and tithes aforesaid, according to the form and effect of the indenture aforesaid: And this they are ready to verify: Wherefore they pray judgment and their debt aforesaid, together with their damages by reason of the detention of that debt, to be adjudged to them, &c.

And the said George says, that he hath not resigned into the hands of the said bishop of Meath the said church and rectory aforesaid in manner and form as the said James and Silvester above in replying thereto have alledged: And of this he puts himself upon the country: And the said James and Silvester thereof likewise, &c. Therefore let a jury thereon come before the Lady the Queen at Westminster day next after and who neither, &c. to recognise, &c. because as well, &c. The same day is given to the parties aforesaid there, &c.

Upon the trial of this issue the plaintiffs were nonsuited.

AND the said Thomas by N. D. his attorney comes and defends the force and injury, when, &c. And says that the said John ought not to have or maintain his action aforesaid thereof against him, because he saith that the said Nicholas Jackett in his Lifetime, to wit, on the 17th day of February in the 12th year of the reign of the Lord William the Third, late King of England, &c. at H. in the county aforesaid, by his certain writing obligatory bearing date the same day and year, acknowledged himself to be held and firmly bound to one Thomas Beard in 120*l.* to be paid to the same Thomas Beard when he should be thereto required, which said 120*l.* at the time of the death of the said Nicholas Jackett was a just and true debt of the said Nicholas, and to the said Thomas Beard due and unpaid; wherefore the same Thomas Beard, for the recovery of the same 120*l.* after the death of the said Nicholas, to wit, on the 12th day of April in the 3d year of the reign of the Lady Anne, now Queen of England, &c. prosecuted out of the court of Chancery of the said Lady the Queen (the same court of Chancery being then at Westminster in the county of Middlesex) a certain Writ original of the said Lady the Queen against him the said Thomas Jackett as executor of the will of the said Nicholas, by the name of T. Jackett, late of H. in the county aforesaid, master, executor of the will of the said Nicholas Jackett, lately otherwise called, &c. in a plea of debt, on a demand of the said 120*l.* to the then sheriff of Suffex directed, by which said writ the same Lady the now Queen commanded the same then sheriff of Suffex, that he should command the same Thomas Jackett, that he should justly and without delay render to the said Thomas Beard the said 120*l.* which he then unjustly detained, as he said; and unless he did,

Warranty.

Covenants performed.

Repl. Protesting that he hath not performed, say that he resigned his Rectory into the hands of the bishop, &c.

Do not say how. Degg. 208.

Rejoinder, that he hath not resigned.

Bar, that his testator was indebted by Bond to A. B.

a who sued out an original against the defendant,

did, and the said *Tbo. Beard* made him the said then sheriff secure to prosecute his suit, then the same sheriff should summons by good summoners him the said *Tbo. Jackett*, that he should be before the justices of the said Lady the Queen at *Westminster* from the day of *Easter* in 15 days then next coming, to shew why he had not done it, and that he should have then there the names of the summoners, and that writ: On which day, to wit, at the said 15 days of *Easter*, before *T. Trevor*, Knt. and his companions, then justices of the said Lady the Queen of the Bench at *Westminster*, came as well the said *T. Beard* by *T. O.* then his attorney, as the said *T. Jackett* by *J. W.* his attorney; and the then sheriff of the county of *Sussex*, to wit, *S. Blunt*, Esq; to the same justices then and there returned, that the said *T. Beard* had found the same sheriff pledges to prosecute his writ aforesaid, to wit, *John Doe* and *Richard Roe*, and that the same *T. Jackett* had nothing in his bailiwick by which he could be summoned, &c. whereupon the said *T. Beard* by declaring against the said *T. Jackett* upon his writ aforesaid by his attorney aforesaid said, that whereas the said *Nicholas* in his life-time, to wit, on the said 17th day of *February* in the 12th year of the reign of the said Lord *William the Third*, late King of *England*, &c. aforesaid, at *H.* aforesaid, by his writing obligatory acknowledged himself to be bound to the said *Tbo. Beard* in the said 120 *l.* to be paid to the said *Tbo. Beard*, when he should be thereto requested: Nevertheless the said *Nicholas* in his life-time, or the said *Tbo. Jackett* after the death of the said *Nicholas*, altho' often requested, the said 120 *l.* to the said *Tbo. Beard* had not render'd, but had denied to render him them, and the said *Tbo. Jackett* did then deny to render them to the same *Tbo. Beard*, and unjustly detained them, whereby he then said, that he was prejudiced, and had damage to the value of 10 *l.* And therefore he produced the suit, &c. And he produced then there in court the writing aforesaid, which proved the debt aforesaid in form aforesaid, the date whereof was the day and year aforesaid, &c. And the same *Tbo. Jackett* by his attorney aforesaid then defended the force and injury, when, &c. and the same attorney said, that he was not informed by the same *Tbo. Jackett*, his master, to give any answer for the said *Tbo. Jackett* to the said *Tbo. Beard* in the plea aforesaid, and said nothing else thereto; whereby the said *Tbo. Beard* remained against the said *Tbo. Jackett* therein undefended: Therefore it was then considered by the same court, that the said *Tbo. Beard* should recover against the said *Tbo. Jackett* his debt aforesaid, and his damages by reason of the detention of that debt to 50 *s.* to the same *Tbo. Beard* by his assent by the court aforesaid there adjudged, to be levied on the goods and chattels which belonged to the said *Nicholas* at the time of his death, being in the hands of the said *Tbo. Jackett* to be administered, if he had so much thereof; and if he had not, then the damages aforesaid to be levied of the proper goods and chattels of the said *Tbo. Jackett*, and that the said *Tbo. Jackett* should then be in mercy, &c. as by the record and process thereof in the said court of the said Lady the Queen of the Bench at *Westminster* aforesaid remaining more fully appears; which said judgment so as aforesaid render'd doth yet in its full force and effect remain not reversed, annulled or satisfied: And the same *Tbo. Jackett* farther says, that he hath fully administer'd all the goods and chattels which belonged to the said *Nicholas* at the time of his death, and that he hath no goods or chattels which belonged to the said *Nicholas* at the time of his death in his hands to be administer'd, nor had on the day of the exhibition of the bill of the said *John* aforesaid, nor ever after, except goods and chattels to the value of 50 *l.* which are charged and bound with the execution of the judgment aforesaid above pleaded: And this he is ready to verify: Wherefore he prays judgment if the said *John* ought to have or maintain his action aforesaid against him, &c. with this, that the same *Tbo. Jackett* will verify that the said *Nicholas* deceased in the bill of the said *John* named, and the said *Nicholas* in the record of the judgment aforesaid above pleaded deceased and named, were one and the same person, and not other nor diverse; and that the said *Tbo. Jackett* above in this plea named executor of the will of the said *Nicholas*, and the said *Tbo. Jackett* in the said judgment above pleaded and named executor of the will of the said *Nicholas*, are one and the same person, and not other nor diverse.

L. Agar.

And the said *John Hills* says, that he by any thing by the said *Thomas* above in pleading alleged ought not to be precluded from his action aforesaid against him the said *Thomas* had, because, as to the judgment aforesaid by the said *Thomas Beard* against the said *Thomas* obtained, the same *John* says that it is true, that the said *Nicholas Jackett* in his life-time became bound to the said *Thomas Beard* in the said writing obligatory in the plea aforesaid above-specified, and that after the death of the said *Nicholas Jackett* the said judgment was had and obtained by the said *Thomas Beard* against the said *Thomas Jackett*, as the said *Thomas* above by pleading hath alleged; but the said *John* farther says, that the said writing obligatory was made by the said *Nicholas* in his life-time to the said *Thomas Beard*, on a condition thereto under-written for the payment of 60 *l.* with interest at a certain day then to come and now past; and the same *John* farther says, that 15 *l.* and no more, at the time of the judgment aforesaid obtained remained and now remain really due and unpaid to the said *Thomas* on the said writing obligatory, and on the judgment aforesaid thereon obtained;

returnable in
C. B.

Declaration
thereon.

Judgment by
Not informed.

Averment,
the judgment
in force.

Fully admin-
ister'd, ex-
cept 50 *l.*

This aver-
ment is not
material.

Repl. That
there was but
15 *l.* due, on
payment
whereof the
obligee offer-
ed to acknow-
ledge satis-
faction.

obtained; and that the said *Thomas Beard* on payment of the said 15*l.* before the exhibition of the said bill of the said *John* offered, and at the same time of the exhibition of the same bill was ready and yet is ready to acknowledge satisfaction on the judgment aforesaid by him obtained, to wit, at *Lewes* aforesaid in the county aforesaid; and that the said *Thomas* hath hitherto refused to pay the said debt so as aforesaid remaining really due to the said *John* out of the goods and chattels of the said *Nicholas Jacket* remaining in his hands to be administered, and hath permitted and yet doth permit the said judgment to remain in its full force and effect with an intent to defraud him the same *John* of his debt aforesaid, to wit, at *Lewes* aforesaid in the county aforesaid: And the same *John* says, that the said *Thomas*, on the day of the exhibition of the bill of him the said *John*, to wit, on *Wednesday* next after fifteen days of *Easter*, had divers goods and chattels which belonged to the said *Nicholas* at the time of his death in his hands to be administered sufficient to satisfy the said *Thomas Beard* the said 15*l.* and to satisfy the said *John* his debt aforesaid, and above, to wit, at *Lewes* aforesaid in the county aforesaid: And this he is ready to verify: Wherefore he prays judgment and his debt aforesaid, together with his damages by reason of the detention of that debt, to be adjudged to him, &c.

But that it is kept on foot by fraud.

And that he has assets sufficient.

St. John Broderick.

WHEN, &c. And says that the said *Zachary* ought not to have or maintain his action aforesaid thereof against him, because he says, that as to the first promise and assumption in the declaration of him the said *Zachary* abovementioned, one *John Hale* in the said declaration likewise mentioned, after the said 20th day of *February* in the year of the Lord 1712 aforesaid, and within the said six months in the said promissory note for the payment of the said 30*l.* limited, to wit, on the 15th day of *March* in the same year, at *Westminster* aforesaid in the county aforesaid, paid to the same *Zachary* the said 30*l.* in the said promissory note mentioned according to the tenor and contents of the same note, in full satisfaction and discharge of the said first promise and assumption of the said *John Cope* in the declaration of him the said *Zachary* and the promissory note aforesaid expressed; which said sum of money the same *Zachary* of the same *John Hale* in full satisfaction and discharge of the same then and there received and accepted: And as to the second and third promises and assumptions of the said *John Cope* in the declaration of the said *Zachary* abovementioned, the said *John Cope* farther for plea says, that after the indorsement of the said promissory note as aforesaid he the said *Zachary* afterwards, to wit, on the said 20th day of *February* in the year of the Lord 1712 aforesaid, at *Westminster* aforesaid in the county aforesaid, received and accepted the promissory note aforesaid under the hand of the said *John Hale* for the payment of the 30*l.* aforesaid to the said *John Cope* or his order, and by the said *John Cope* indorsed, and the same 30*l.* by him appointed to be paid to the said *Zachary*; which said promissory note was by the same *John Cope* delivered to the said *Zachary*, and by him accepted in full satisfaction and discharge of the said several second and third promises and assumptions in the declaration aforesaid abovementioned: And this he is ready to verify: Wherefore he prays judgment if the said *Zachary* ought to have his action aforesaid against the said *John Cope*, &c.

Bar as to the first promise payment. 6 Co. 44.

And as to the second and third promise the acceptance of a note from a third person in satisfaction. Pract. Reg. 13, 15.

And the said *Zachary* says, that he by any thing by the said *John Cope* above in pleading alledged ought not to be precluded from his action aforesaid thereof against him had, because as to the first promise and assumption in the declaration of the said *Zachary* aforesaid abovementioned the same *Zachary* says, that the said *John Hale* within the six months in the promissory note aforesaid mentioned did not pay to the same *Zachary* the said 30*l.* in the same promissory note mentioned, in manner and form as the said *John Cope* above by pleading hath alledged, nor at any time after: And this he prays may be inquired of by the country: And the said *John Cope* likewise, &c. And as to the second and third promises and assumptions in the declaration aforesaid abovementioned, the same *Zachary* says, that he did not receive nor accept the promissory note aforesaid in full satisfaction and discharge of the said second and third promises and assumptions in the declaration aforesaid mentioned, in manner and form as the said *John Cope* above in pleading thereto hath alledged: And this he prays may be inquired of by the country: And the said *John Cope* likewise, &c. Therefore to try as well that issue as the said other issue between the parties aforesaid above joined, let a jury come thereon before the Lord the King at *Westminster* day next after and who neither, &c. to recognize, &c. because as well, &c. The same day is given to the parties aforesaid there, &c.

Repl. as to the first promise he did not pay.

Issue.

As to the residue that he did not accept.

Issue.

Venire awarded to try both issues.

Case on a promise; the defendant pleaded he did not promise within six years; and the plaintiff replied as follows:

AND the said *John* says, that he by any thing by the said *George* above in pleading alledged ought not to be precluded from his action aforesaid thereof against him the said *G.* had, because he says, that within six years after the cause of action aforesaid in the declaration aforesaid abovementioned accrued, and before the exhibition of the bill aforesaid, to wit, in *Trinity* term in the 30th year of the reign of the Lord *Charles* the Second, late King of *England*, &c. the said *J.* for the recovery of his damages by reason of the non-performance of the promises and assumptions aforesaid in the declaration aforesaid abovementioned, prosecuted against the said *G.* out of the court of the said Lord the now King before the King himself (the same court then being at *Westminster* in the county of *Middlesex*) a certain writ of the said late Lord the King called a *Latitat*, directed to the then sheriff of the county of *York*, whereby the same sheriff was commanded that he should take the said *G.* if he should be found in his bailiwick, and should safely keep him, so that he might have his body before the said late Lord the King at *Westminster* on day next after to answer to the said *J.* in a plea of trespass; and that he should have there then that writ: The same day was given to the said *J.* there, &c. On which day before the said late Lord the King at *Westminster* came the said *J.* in his proper person; and the sheriff did not return thereof the writ, nor did any thing therein: Therefore as before the sheriff was commanded that he should take the said *G.* if he should be found in his bailiwick, and should safely keep him, so that he might have his body before the said late Lord the King at *Westminster* on day next after to answer to the said *John* in the plea aforesaid: The same day was given to the said *J.* there, &c. On which day before the said late Lord the King at *Westminster* came the said *J.* in his proper person; and the sheriff did not return thereof the writ, nor did any thing therein: Therefore as before the sheriff was commanded that he should take the said *G.* if he should be found in his bailiwick, and him should safely keep, so that he might have his body before the said late Lord the King at *Westminster* on day next after to answer to the said *J.* in the plea aforesaid: The same day was given to the said *J.* there, &c. On which day before the said late Lord the King at *Westminster* came the said *J.* in his proper person; and the sheriff did not return thereof the writ, nor did any thing therein: Therefore as before the sheriff was commanded that he should take the said *G.* if he should be found in his bailiwick, and him should safely keep, so that he might have his body before the said late Lord the King at *Westminster* on day next after to answer to the said *J.* in the plea aforesaid: The same day was given to the said *J.* there, &c. On which day before the said late Lord the King at *Westminster* came the said *J.* in his proper person; and the sheriff did not return thereof the writ, nor did any thing therein: Therefore as before the sheriff was commanded that he should take the body of the said *G.* if he should be found in his bailiwick, and him should safely keep, so that he might have his body before the said late Lord the King at *Westminster* on day next after to answer to the said *J.* in the plea aforesaid: The same day was given to the said *J.* there, &c. On which day before the said late Lord the King at *Westminster* came the said *J.* in his proper person; and the sheriff did not return thereof the writ, nor did any thing therein: Therefore as before the sheriff was commanded that he should take the said *G.* if he should be found in his bailiwick, and him should safely keep, so that he might have his body before the said late Lord the King at *Westminster* on day next after to answer to the said *J.* in the plea aforesaid: The same day was given to the said *J.* there, &c. before which day the said Lord *Charles* the Second, late King of *England*, departed this life: On which day before the Lord *James* the Second, now King of *England*, at *Westminster* came the said *J.* in his proper person; and the sheriff did not return thereof the writ, nor did any thing therein: Therefore as before the sheriff was commanded that he should take the said *G.* if he should be found in his bailiwick, and him should safely keep, so that he might have his body before the said Lord the King at *Westminster* on day next after to answer to the said *J.* in the plea aforesaid: The same day was given to the said *J.* there, &c. On which day before the said Lord the King at *Westminster* came as well the said *J. Walden* by *John Lilly* his attorney, as the said *G.* by *T. M.* his attorney, and the same *G.* put in bail thereto, and in the same court here appeared at the suit of the said *J.* according to the command of the said writ: And thereupon the said *J.* against the said *G.* for the said cause of action in the declaration aforesaid abovementioned in the same court of the said Lord the King before the King himself, to wit, at *Westminster* aforesaid in the county of *Middlesex* aforesaid, in the said *Trinity* term in the 1st year of the reign of the Lord *James* the Second aforesaid, by his bill

bill aforesaid declared in manner and form aforesaid: And the said *J.* farther says, that the cause of action aforesaid, on which the said *J.* against the said *G.* above hath declared, accrued within six years next before the prosecution of the said writ of *Latitas* first mentioned, to wit, at *Doncaster* aforesaid in the county aforesaid: And this he is ready to verify: Wherefore he prays judgment, and his damages by reason of the non-performance of the promises and assumptions aforesaid, to be adjudged to him, &c.

AND now on this day, to wit, *Wednesday* next after 15 days of *Easter* in this same Imparlance term, until which day the said *W. H.* had leave to imparl to the bill aforesaid and then to answer, &c. before the Lord the King at *Westminster* comes as well the said *James* Earl of *Brecknock* by his attorney aforesaid, as the said *William* by *Jeffery Woodward* his attorney: And the same *W.* defends the force and injury when, &c. and says that he is not Not guilty. thereof guilty: And of this he puts himself upon the country: And the said *James* Earl of *Brecknock* thereof, &c. Therefore let a jury thereon come before the Lord the King at *Westminster* on next after and who neither, &c. to recognize, &c. because as well, &c. The same day is given to the parties aforesaid there, &c. On which day before the Lord the King at *Westminster* come the parties aforesaid by their attorneys aforesaid; and the sheriff did not return thereof the writ: Therefore as before let a jury thereon come before the Lord the King at *Westminster* on day next after and who neither, &c. to recognize, &c. because as well, &c. The same day is given to the parties aforesaid there, &c. Before which day, to wit, after the said next after and before the said next after to wit, on the 9th day of *November* in the 34th year of the reign of the said Lord the now King, the same Lord the now King by his letters patent sealed under the Great Seal of *England*, bearing date at *Westminster* aforesaid the said 9th day of *November* in the 34th year of his reign aforesaid, and here in court produced, raised, constituted and created the said *James* Earl of *Brecknock* to the state, degree, stile, title, dignity, name and honour of Duke within this kingdom of *England*, by the name of Duke of *Ormond*: On which said next after before the Lord the King at *Westminster* comes as well the said *James* Duke of *Ormond*, who as well, &c. as the said *W. H.* by their attorneys aforesaid; and the sheriff did not return thereof the writ: Therefore as before let a jury thereon come before the Lord the King at *Westminster* on next after and who neither, &c. to recognize, &c. because as well, &c. The same day is given as well to the said *James* Duke of *Ormond*, who as well, &c. as to the said *William Heberington* there, &c.

This cause was tried at bar, and 10000 l. damages given.

AND now on this day, to wit, *Wednesday* next after the Octave of *St. Hillary* in this same Imparlance term, until which day the said *M.* all and all manner of exceptions being saved to him as to the bill aforesaid, had leave to imparl to the said bill and then to answer, before which day the said Lady Queen *Mary* departed this life, before the said Lord the King at *Westminster* comes as well the said *Frances* by her attorney aforesaid, as the said *M.* by *A. B.* his attorney: And the same *M.* defends the force and injury when, &c. and praysoyer of the writing aforesaid; and to him it is read, &c. he prays likewiseoyer of the condition of the same writing; and to him it is read in these words, to wit, The condition, &c. Which being read and heard the same *M.* prays judgment of the bill aforesaid, because he says that she the said *Frances*, at the said time of the exhibition of the bill of her the said *Frances* aforesaid, was lawfully and according to the laws of the church of *England* married to one *C. D.* her husband in the said bill not named: Wherefore the said *M.* prays judgment of the bill aforesaid, and that the said bill may be quashed.

And the said *F.* says, that by any thing by the said *M.* above in pleading alledged the bill of her the said *F.* ought not to be quashed, because she says, that she the said *F.* at the time of the exhibition of the bill of her the said *F.* aforesaid, to wit, on the 23d day of *October* in the 6th year of the reign of the said Lord the King, and of the late Lady *Mary* Queen of *England*, &c. she was sole; without that, that the said *F.* at the said time of the exhibition of the bill aforesaid was married to the said *C. D.* as the said *M.* above in pleading hath alledged: And this she is ready to verify: Wherefore she prays judgment, and that the bill of the said *F.* may be adjudged as good, and for want of a sufficient answer her debt aforesaid, together with her damages by reason of the detention of that debt, to be adjudged to her, &c.

And

Issue thereon. And the said *M.* as before says, that the said *F.* at the time of the exhibition of the bill aforesaid was married to the said *C. D.* in manner and form as the said *M.* above in pleading hath alledged: And of this he puts himself on the country: And the said *F.* thereof likewise: Therefore, &c.

Bar to debt upon a sheriff's bond conditioned to prosecute an action in replevin, and to make a return, &c.

That he did appear and prosecute, and that no return was adjudged.

The sheriff, &c. were not damnified.

AND the said *Henry* by *J. R.* his attorney comes and defends the force and injury, when, &c. and prays oyer of the writing aforesaid; and to him it is read, &c. he prays also oyer of the condition of the same writing; and to him it is read in these words, to wit, The condition of this obligation is such, that if *John Wastorne* do appear at the next county-court to be holden at *Northampton*, and then and there do prosecute his action with effect against *John Stone* and *John Cooper*, for wrongfully taking and detaining his cattle, viz. two and twenty bullocks, as is alledged, and do also make return thereof, if return thereof shall be adjudged by law, and also do save and keep harmless and indemnified the above-named sheriff, his under-sheriff and bailiff, for, touching and concerning the delivery of the said cattle, that then this present obligation to be void, otherwise to remain in full force and virtue: Which being read and heard, the same *Henry* says that the said *William* ought not to have his action aforesaid against him, because he says that the said *John Wastorne* in the condition aforesaid mentioned did appear at the next county-court after the making of the writing obligatory aforesaid, to wit, on the fourth day of *February* in the eighth year aforesaid, at *Northampton* aforesaid, before the said then sheriff held, and then and there prosecuted his action aforesaid in the condition aforesaid mentioned, with effect against the said *John Stone* and *John Cooper* in the condition aforesaid mentioned, for wrongfully taking and detaining his cattle, to wit, the said twenty-two bullocks in the same condition mentioned, and that no return thereof ever was yet adjudged: And also that the said late sheriff, his under-sheriff and bailiff, have not hitherto been damnified, nor hath any of them been damnified, for, touching or concerning the delivery of the said cattle or any of them: And this he is ready to verify: Wherefore he prays judgment if the said *William* ought to have his action aforesaid thereof against him, &c.

J. Girdler.

Repl. that the plaint was removed into *C. B.* and that he did not there prosecute.

Recorders sued.

The return.

And the said *William Cutbbert* says, that he by any thing by the said *Henry* above in pleading alledged ought not to be precluded from his action aforesaid against him the said *Henry*, because he says that well and true it is, that the said *John Wastorne* in the condition aforesaid named did appear at the next county-court after the making of the writing obligatory aforesaid on the said fourth day of *February* in the eighth year aforesaid before the then sheriff held, and did then and there prosecute his action aforesaid against the said *John Stone* and *John Cooper*, for wrongfully taking and detaining his cattle, to wit, twenty-two bullocks in manner and form as the said *Henry* above in pleading hath alledged; but the said *William* farther says that afterwards, to wit, on the day of in the year the said *John Cooper* and *John Stone* prosecuted out of the court of the said Lord the King of Chancery at *Westminster* a certain writ of the said Lord the King, directed to the said sheriff of the county of *Northampton*, whereby the then sheriff was commanded, that in his full county he should cause to be recorded the plea then in the same county without the writ of the same Lord the King, between the said *John Wastorne* and them the said *John Stone* and *John Cooper* for the cattle of him the said *John Wastorne* taken and unjustly detained, as it was said; and that he should have that record before the justices of the said Lord the King at *Westminster* on the morrow of the Ascension of the Lord, under his seal and the seals of four lawful Knights of the same county of those who were present at that record; And that he should prefix the same day to the parties that they should be then there to proceed in that plea as it should be just; And that he should have there the names of the four Knights, and that writ: Which said sheriff at the said day of the return of that writ, did return to the same justices of the said Lord the now King at *Westminster* aforesaid, that by virtue of that writ he had caused to be recorded the plea which was in his county without the writ of the Lord the King between the parties aforesaid, in a plea of taking and unjustly detaining of cattle; And that he had that record before the justices aforesaid at the day and place aforesaid, under his seal and the seals of *W. H. J. S. J. S.* and *R. S.* four lawful Knights of his county of those who were present at that record: And farther the same sheriff then and there returned in a schedule to the writ aforesaid annexed the plea aforesaid, which follows in these words, *Northampton*, to wit, At my county held at the town of *Northampton* in the county aforesaid on the seventh day of *January* in the eighth year of the reign of the Lord *William* the Third, now King of *England*, &c. before *J. S. Gent. W. M. Gent. G. H. and W. K.* four suitors of that court, *J. W.* plaintiff against *J. S. and J. C.* in a plea of taking and unjustly detaining of his cattle, *W. C. Esq.* sheriff, as by the writ and return aforesaid in the custody of the keeper of the writs of

of the Bench here at *Westminster* aforesaid remaining filed on record more fully appears: And the same *W. C.* farther saith, that on the plea aforesaid afterwards, to wit, in *Hillary* term in the ninth year of the reign of the said Lord the now King, the said *J. W.* declared in the said court of Bench here against them the said *J. S.* and *J. C.* for this, that they on the 12th day of *January* in the eighth year of the reign of the said Lord the now King, at *Bingley* in the county of *Northampton* aforesaid, in a certain close there called the *Great Meadow*, took the cattle, to wit, twenty-two bullocks of him the said *J. W.* and them unjustly detained against surety and pledges, until, &c. whereby the same *J. W.* then said he was prejudiced and had damage to the value of 500 *l.* And therefore he produced the suit, &c. Whereupon the said *J. S.* and *J. C.* by *W. L.* their attorney came and defended the force and injury, when, &c. and as bailiffs of *J. G.* well acknowledged the taking of the cattle aforesaid in the said place, in which, &c. and justly, &c. because they said that the said place called the *Great Meadow*, in which the taking of the cattle aforesaid is supposed to be done, then and at the time in which, &c. did contain in itself 65 acres of meadow with the appurtenances in *Bingley* aforesaid, and that the said 65 acres of meadow with the appurtenances, in which, &c. long before the said time in which, &c. to wit, on the 28th day of *November* in the 36th year of the reign of the Lord *Charles* the Second, late King of *England*, &c. and long before, and from time immemorial, were parcel of the manor of *Bingley* with the appurtenances in *Bingley* aforesaid: Of which said manor with the appurtenances whereof, &c. one *E. G.* father of him the said *J. G.* on the same 28th day of *November* in the 36th year above said, was seised in his demesne as of fee: And he the said *E. G.* so of the manor aforesaid with the appurtenances, whereof, &c. in form aforesaid being seised, the same *E.* on the said 28th day of *November* in the 36th year above said, at *Bingley* aforesaid in the county aforesaid, by his certain indenture then and there made between him the said *E. G.* by the name of *E. G. of Bingley* in the county of *Northampton*, Esq; of the one Part, and one *R. R.* by the name of *R. R. of Dallington* in the county aforesaid, Esq; and the said *J. G.* by the name of *J. G. son and heir apparent* of the said *E. G.* of the other part, one part whereof sealed with the seal of the said *E. G.* the same *J. S.* and *J. C.* then in court produced, the date whereof is the same day and year, reciting that a marriage was then intended shortly to be had and solemnized between the said *J. G.* and *A. R.* daughter of the said *R. R.* Therefore in consideration of the said intended marriage and of the sum of 10000 *l.* of lawful money of *England* to him the said *E. G.* as the marriage portion of the said *A.* by the said *R. R.* on or before the sealing and delivery of the said indenture well and truly paid, the receipt whereof he the said *E. G.* by the said indenture did acknowledge, and for the provision of a present maintenance for the said *J. G.* and *A. R.* during the life of the said *E. G.* in case the said intended marriage should take effect, he the said *E. G.* did grant to the said *J. G.* an annuity or yearly rent of 800 *l.* of lawful money of *England*, to be issuing out of the manor of *Bingley* aforesaid, whereof the said place in which is parcel, and all and singular the lands, manors and hereditaments whatsoever of the said *E. G.* situate, lying and being in the said parish of *Bingley* aforesaid in the said county of *Northampton*; To have, hold, receive and yearly perceive, take and enjoy the said annuity or yearly rent of 800 *l.* to the said *J. G.* and his assigns, for and during the term of 99 years, commencing immediately from and after the solemnization of the said intended marriage, and fully to be compleat and ended, if the said *E. G.* and *J. G.* should so long jointly live, and to be payable yearly at the four most usual feasts or times in the year, that is to say, the Annunciation of the blessed Virgin *Mary*, the feast of *St. John* the Baptist, the feast of *St. Michael* the Archangel and of the Birth of our Blessed Lord and Saviour *Jesus Christ*, by even and equal portions; the first payment thereof to begin and be made on the said feast of the Annunciation next following the solemnization of the said intended marriage: And the said *E. G.* by the said indenture farther granted and agreed, that if it should happen that the said annuity or yearly rent of 800 *l.* or any part thereof, should be behind or unpaid at any the days or times on which the same ought to be paid, that then it should be lawful to and for the said *J. G.* in and upon the said manor, whereof the said place, in which, &c. is parcel, and the messuages, lands, hereditaments and premisses, out of which the said yearly rent was granted or mentioned to be granted, issuing or mentioned to be issuing as aforesaid, and into every or any part and parcel thereof, at his and their liberty to enter and distrain for the said yearly rent of 800 *l.* and the arrears thereof, and the distress and distresses then and there so found to take, lead, drive, carry away, impound, and impounded detain and keep, until the said yearly rent of 800 *l.* and all the arrears thereof, for which such distress or distresses should be made as aforesaid, should be fully satisfied, contented and paid to the said *J. G.* and his assigns, as by the same indenture among other things more fully appears: And the same *J. S.* and *J. C.* farther said, that he the said *J. G.* afterwards, to wit, on the 21st day of *December* in the 36th year above said at *Bingley* aforesaid in the county aforesaid, did take her the said *A. R.* for his wife, and by virtue thereof and of the grant aforesaid, afterwards, to wit, on the first day of *April* then next following, at *Bingley* aforesaid in the county aforesaid,

The declaration in C. B.

Cognisance.

Seisin in fee.

Marriage settlement.

then was lawfully possessed of the rent aforesaid, and because 1000*l.* of the rent aforesaid for one year and a quarter of a year, ended at the feast of the Nativity of our Blessed Lord and Saviour *Jesus Christ* in the year of the Lord 1696; and at the said time in which, &c. to the same *J.* were in arrear and unpaid, the said *J. S.* and *J. C.* as bailiffs of the said *J. G.* well acknowledge the said taking of the cattle aforesaid in the said place in which, &c. and justly, &c. for the said 1000*l.* of the rent aforesaid, as in land chargeable and bound to the distress of the said *J.* in form aforesaid: And this the same *J. S.* and *J. C.* were ready to verify: Wherefore they prayed judgment and a return of the cattle aforesaid, together with their damages, costs and charges, according to the form of the statute in such case made and provided, to be adjudged to them; with this that the same *J. S.* and *J. C.* did aver that the said *E. G.* and *J. G.* were then surviving and in full life, to wit, at *Bingley* aforesaid in the county aforesaid: And the said *J. W.* then said, that the said *J. S.* and *J. C.* the taking of the cattle aforesaid as bailiffs of the said *J. G.* in the said place in which, &c. for the reason before alledged ought not to acknowledge just, because he said that the said *J. S.* and *J. C.* on the day and year abovesaid in the declaration aforesaid mentioned, did of their own wrong take the said twenty-two bullocks in the manner as the said *J. W.* by his writ and declaration aforesaid above had supposed; without that, that the said *E. G.* in the cognisance aforesaid abovementioned, granted to the said *J. G.* the said annuity or yearly rent of 800*l.* in manner and form as the said *J. S.* and *J. C.* by their cognisance aforesaid above had alledged: And that he was ready to verify: Wherefore he prayed judgment if the said *J. S.* and *J. C.* ought to maintain their cognisance aforesaid against him, &c. And the said *J. S.* and *J. C.* said that the said *E. G.* in the cognisance aforesaid abovementioned, did grant to the said *J. G.* the said annuity or yearly rent of 800*l.* in manner and form as the said *J. S.* and *J. C.* by their cognisance aforesaid above had alledged: And of that they put themselves on the country: And the said *J. W.* thereof likewise, &c. Therefore the sheriff was commanded that he should cause to come in the Octave of the Purification of the blessed *Mary* 12, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. Afterwards the process thereof between the parties aforesaid in the plea aforesaid by the jury thereon between them being respited before the justices of the Lord the King at *Westminster* in 15 days, unless the justices of the Lord the King assigned to take assises in the county aforesaid by form of the statute, &c. on *Tuesday* the 15th day of *March* at *Northampton* in the county aforesaid, should first come for want of jurors, &c. On which day before the justices of the Lord the King at *Westminster* aforesaid came the said *J. S.* and *J. C.* by their attorney aforesaid: And the said justices of the Lord the King of assise, before whom, &c. sent here their record before them had in these words, to wit, Afterwards the day and place within contained, before *John Powell*, Knt. one of the justices of the Lord the King of the Bench, and *George Dodson*, Esq; to the same *John Powell*, Knt. and *N. L.* one of the barons of the Exchequer of the said Lord the King, justices of the said Lord the King assigned to take assises for the county of *Northampton*, by the form of the statute, &c. for this time associate, the presence of the said *N. L.* not being expected, by virtue of the writ of the said Lord the King of *Si non omnes*, &c. came as well the within named *J. W.* as the within written *J. S.* and *J. C.* by their attornies within contained: And the jurors of the jury, whereof mention is within made, being called likewise came, who to say the truth of the within contained were elected, tried and sworn, &c. and were agreed and returned back to the bar here to give that verdict; whereupon the said *J. W.* altho' solemnly called did not come, nor did farther prosecute his writ aforesaid against the said *J. S.* and *J. C.* as by the record thereof in the court of the Bench here at *Westminster* aforesaid remaining more fully appears; and so the said *W. C.* says that the said *J. W.* did not prosecute his plea aforesaid with effect according to the form and effect of the condition of the writing obligatory aforesaid: And this the same *W. C.* is ready to verify by that record: Wherefore he prays judgment and his debt aforesaid, together with his damages by reason of the detention of that debt, to be adjudged to him, &c.

Statute of 23
H. 6. c. 10.
pleaded to a
bail bond.

WHEN, &c. And prays *oyer* of the writing obligatory aforesaid; and to him it is read, &c. he prays also *oyer* of the condition of the same writing obligatory; and to him it is read in these words, to wit, The condition of this obligation is such, that if the above bounden *Edward Kitchener* do appear before the said Lady the Queen at *Westminster* on *Tuesday* next after the morrow of *All Souls*, to answer *Richard Browning* in a plea of trespass, and also a bill of debt for 60*l.* according, &c. then this obligation to be void, or else to remain in full force, strength and virtue: Which being read and heard, the said *Benjamin* says, that he ought not to be charged by virtue of the writing obligatory aforesaid, because he says, that before the making of the writing obligatory aforesaid, to wit, by a certain act made in a parliament of the Lord *Henry* the Sixth, held at *Westminster* in the county of *Middlesex* on the 25th day of *February* in the 23d year of his reign, it was among other things enacted by the authority of the same parliament

parliament, that no sheriff, under-sheriff, sheriff's clerk, steward or bailiff of franchise, servant of bailiff or coroner, should take any thing by colour of his office, by him nor by any other person to his use, of any person for the making of any return or panel, and for the copy of any panel, but 4*d*. And that the said sheriffs, and all other officers and ministers aforesaid, should let out of prison all manner of persons by them or any of them arrested or being in their custody by force of any writ, bill or warrant in an action personal, or by reason of indictment by trespass, upon reasonable sureties of sufficient persons having sufficient within the counties where such persons be so let to bail or mainprise, to keep their days in such place as the said writs, bills or warrants should require (such person or persons which were or should be in their ward by condemnation, execution, *capias ut legatum* or *excommunicatum*, surety of the peace, and all such persons which were or should be committed to ward by special commandment of any justices, and vagabonds refusing to serve according to the form of the statute of labourers, only excepted): And that no sheriff, nor any of the officers or ministers aforesaid, should take, or cause to be taken, or make any obligation for any cause aforesaid, or by colour of their office, but only to themselves, of any person, nor by any person which should be in their ward by the course of the law, but by the name of their office, and upon condition written that the said prisoners should appear at the day contained in the said writ, bill or warrant, and in such places as the said writs, bills or warrants should require; and if any of the said sheriffs, or other officers or ministers aforesaid, take any obligation in other form by colour of their offices, that it should be void, as by the same act, among other things, more fully appears: And the same Benjamin says, that after the making of the said act, to wit, at the said time of the making of the writing obligatory aforesaid, the said Edward Kitchener was arrested by the said sheriff of the county aforesaid by a precept of the said Lady the Queen, called a bill of *Middlesex*, to the same sheriff of *Middlesex* directed, issuing out of the court of the said Lady the Queen before the Queen herself here, to wit, at *Westminster* aforesaid, returnable before the Queen herself at *Westminster* aforesaid on *Wednesday* next after the morrow of *All Souls* then next following, to answer to the said Robert Browning in a plea of trespass, and also to the bill of the said Robert against the said Edward for 60*l*. on debt, and that the said Benjamin Green and Charles Peers being then sheriff of the county of *Middlesex* aforesaid, of and upon that arrest took bail, the writing obligatory aforesaid with the condition aforesaid, for ease and favour to the same Edward Kitchener of his imprisonment by the said Benjamin Greene and Charles Peers shewn, and to have and obtain his deliverance therefrom; which said writing obligatory the said Benjamin Greene and Charles Peers took by colour of his office against the form of the statute aforesaid; and so the same Benjamin says, that the writing obligatory aforesaid here in court produced in form aforesaid, and for the cause aforesaid, as before mentioned, taken and made by force of the statute aforesaid, is void in law: And this the same B. S. is ready to verify: Wherefore he prays judgment if he the same B. S. ought to be charged with the debt aforesaid by virtue of the writing obligatory aforesaid, &c.

And the said Robert Browning says, that he by any thing by the said Benjamin Suran Demurset to above in pleading alledged ought not to be precluded from his action aforesaid thereof plea in debt against him the said Benjamin had, because he says, that the plea aforesaid by the said Benjamin in manner and form aforesaid above pleaded, and the matter in the same contained, are not sufficient in law to preclude him the said Robert from his action aforesaid thereof against him the said Benjamin had; to which said plea in manner and form aforesaid above pleaded, he the same Robert hath no necessity, nor is by the law of the land obliged, in any manner to answer: And this he is ready to verify: Wherefore for want of a sufficient plea in this behalf, the same Robert prays judgment and his debt aforesaid, together with his damages by reason of the detention of that debt, to be adjudged to him, &c.

And the said Benjamin says, that the plea aforesaid by him the said Benjamin in manner Joinder in &c. and form aforesaid above pleaded, and the matter in the same contained, are good and murrer. sufficient in law to preclude him the said Robert from his action aforesaid thereof against him the said Benjamin had; which said plea, and the matter therein contained, the same Benjamin is ready to verify and prove, as the court, &c. And because the said Robert doth not answer to that plea, nor the same hitherto deny, the same Benjamin as before prays judgment, and that the said Robert may be precluded from his action aforesaid thereof against him the said Benjamin had, &c. But because the court of the said Lady the now Queen here are not yet advised to give their judgment of and upon the premisses, day therefore is given to the parties aforesaid before the Lady the Queen at *Westminster* until day next after to hear their judgment of and upon those premisses, because the court of the said Lady the now Queen here thereof not yet, &c.

Peysol

*Peytoe against Hyde.**Hill. 8th of Queen Anne.*

Declaration on a bond for 200*l.* dated 28th *May* 1709. conditioned for the payment of 100*l.* with interest at 4*l. per cent. per ann.* on the 31st day of *July* then next following the date. The defendant pleads as follows:

Payment before the day pleaded to debt on bond.
Cro. Jac. 435.
5 Co. 117.

AND the said *Nathaniel* in his proper person comes and defends the force and injury, when, &c. and prays *oyer* of the writing obligatory aforesaid; and to him it is read, &c. he also prays *oyer* of the condition of the same writing; and to him it is read in these words: The condition of this obligation is such, that if the above-bounden *John Rice* and *Nathaniel Hyde*, or either of them, their or either of their heirs, executors or administrators, do well and truly pay, or cause to be paid, unto the above-named *John Peytoe*, his executors, administrators or assigns, the full sum of 100*l.* with interest at 4*l. per cent. per ann.* of good and lawful money of *Great Britain*, on the last day of *July* next ensuing the date hereof, at one whole and intire payment without fraud or delay; then this obligation to be void, or else to remain in full force: Which being read and heard, the same *Nathaniel* says, that the said *John Peytoe* ought not to have or maintain his action aforesaid thereof against him, because he says, that the said *John Rice* in the condition aforesaid above mentioned paid to the said *John Peytoe* the said 100*l.* with interest for the same according to the rate of 4*l. per cent. per ann.* on the 20th day of *July* next following the date of the writing obligatory aforesaid, to wit, at *Westminster* aforesaid in the county aforesaid: And this he is ready to verify: Wherefore he prays judgment if the said *John Peytoe* ought to have or maintain his action aforesaid thereof against him the said *Nathaniel*, &c.

Demurrer.

And the said *John Peytoe* says, that he by any thing by the said *Nathaniel* above in pleading alledged ought not to be precluded from his action aforesaid thereof against him the said *Nathaniel* had, because he says, that the plea aforesaid by him the said *Nathaniel* in manner and form aforesaid above pleaded, and the matter in the same contained, are not sufficient in law to preclude him the said *John* from his action aforesaid thereof against the said *Nathaniel* had; to which said plea he the same *John* hath no necessity, nor is by the law of the land bound in any manner to answer: And this he is ready to verify: Wherefore for want of a sufficient answer in this behalf, he the said *John* prays judgment and his debt aforesaid, together with his damages by reason of the detention of that debt, to be adjudged to him, &c. And for causes of demurrer in law in this behalf the same *John*, according to the form of the statute in such case lately made and provided, sets down and to the court here expresses these causes following, to wit, For that if such payment was made by the said *John Rice* of the said 100*l.* and the interest then due, as the said *Nathaniel* above hath pleaded, the same *Nathaniel* ought to plead that payment was made on the day in the said condition of the writing aforesaid mentioned, and that the matter aforesaid so pleaded is only matter of evidence to prove that issue; and the said *Nathaniel* ought to plead such payment in such manner that issue might be thereon joined; and for that the plea aforesaid doth not contain in itself any matter on which issue can be joined; and the plea is uncertain, double, and wants form, &c.

Causes assigned.
27 El. c. 5.
4 Ann. c. 16.
3 Lev. 293.
Cro. Jac. 435.
Yelv. 196.
Benl. 151.

Edw. Whitaker.

Joinder in demurrer.

And the said *Nathaniel* says, that the plea aforesaid by him the said *Nathaniel* in manner and form aforesaid above pleaded, and the matter in the same contained, are good and sufficient in law to preclude him the said *John* from his action aforesaid thereof against him the said *Nathaniel* had; which said plea, and the matter in the same contained, he the said *Nathaniel* is ready to verify and prove, as the court, &c. And because the said *John* doth not answer to that plea, nor hitherto any way deny the same, he the same *Nathaniel* as before prays judgment, and that the said *John* may be precluded from his action aforesaid thereof against him had, &c. But because the court of the said Lady the now Queen here are not yet advised to give their judgment of and upon the premises, day therefore is given to the parties aforesaid before the Lady the Queen at *Westminster* until day next after to hear their judgment of and upon those premises, because the court of the said Lady the Queen now here thereof not yet, &c.

AND

AND the said *Jonatban Darby* and *Henry Mills* by *J. A.* their attorney come and defend the force and injury, when, &c. And as to the coming with force and arms, or any thing that is against the peace of the Lord the now King, the same *J.* and *H.* say, that they are not thereof guilty: And of this they put themselves on the country: And the said *Joseph* and *N.* thereof likewise, &c. And as to the residue of the trespass and assault aforesaid above supposed to be committed, the same *J.* and *H.* say, that the said *Joseph* and *Mary* ought not to have or maintain their action thereof against them, because they say, that the town of *Guildford* in the county aforesaid is and from time immemorial was an antient town; and that before the time when the trespass and assault aforesaid is supposed to be committed, to wit, on the day of in the sixth year of the reign of the now King, one *Henry Wyatt*, Esq; came into the court of record of the said Lord the now King of his town of *Guildford* aforesaid, then held before one *T. P.* the then mayor, and the good men of the town of *Guildford* aforesaid within the same town, according to the custom, liberty and privilege of the town aforesaid, from time out of mind used and approved in the same, in his proper person, and then and there the same *H. W.* levied a certain plaint against the said *Joseph Cooper* in a plea of trespass on the case, to the damage of him the said *H. W.* 5*l.* and then and there found pledges to prosecute his plaint aforesaid, to wit, *J. Doe* and *R. Roe*, and then and there prayed process to be made for him against the said *Joseph* in the plea aforesaid according to the custom of the town aforesaid, which then and there was granted to him; whereupon at the same court then and there, according to the custom of the town aforesaid, at the petition of the said *W. H.* it was in such manner proceeded, that the said court then and there, according to the custom of the town aforesaid, commanded the sergeants at mace and ministers of the court aforesaid that they should take, or one of them should take, the said *Joseph Cooper*, if he should be found within the liberty of the town aforesaid, and him should safely keep, so that they might have his body at the then next court of the said Lord the King of record of the town aforesaid before the said mayor and good men of the town aforesaid, to be held to answer to the said *J. W.* in the plea of his plaint aforesaid, according to the custom of the town aforesaid: By virtue of which said precept the said *H. Mills*, then being serjeant at mace of the town aforesaid, and minister of the court aforesaid, afterwards and before the then next court of the town of *Guildford* aforesaid, to wit, the said day of in the sixth year above said, at *Guildford* aforesaid within the jurisdiction of the same court, took and arrested the said *Joseph*, and would have and endeavour'd to carry him the said *Joseph* to the prison of the said Lord the King of the town aforesaid at *Guildford* aforesaid within the jurisdiction of the court aforesaid, for want of bail: And the same *H. Mills* farther says, that the said *Joseph* being under the custody of the said *Henry* for the cause aforesaid, as is before mentioned, he the said *Joseph* afterwards, and before the said next court of the town aforesaid, after the arrest aforesaid, to wit, on the said day, &c. in the sixth year above said, with force and arms out of the custody of the said *Henry*, against the will of the said *Henry*, then and there rescued himself and escaped, and went to places to the same *Henry* unknown; whereupon the same *Henry* called the said *Jonatban*, another serjeant at mace of the town aforesaid, to his assistance to retake the said *Joseph*: And the same *Henry* and *Jonatban* at *Guildford* aforesaid within the jurisdiction of the court aforesaid the said *Joseph*, after the said escape as aforesaid made, recently pursued, and made and continued that pursuit from thence from place to place within the liberty of the town aforesaid and jurisdiction of the court aforesaid, until afterwards, to wit, at the time in which, &c. they did retake and arrest the said *Joseph* in that pursuit, at *Guildford* aforesaid within the jurisdiction of the court aforesaid, as they lawfully might: And the same *Henry* and *Jonatban Mills* farther say, that the said *Mary* upon that retaking and arrest then and there with force and arms made an assault on them the said *Jonatban* and *Henry*, and would and did endeavour to have rescued and escaped the said *Joseph* out of the custody of the said *Jonatban* and *Henry*, and also would have then and there beaten, wounded and abused them the said *Jonatban* and *Henry Mills*, unless they the same *Jonatban* and *Henry Mills* had then and there defended themselves against the said *Mary*: And so the same *Jonatban* and *Henry Mills* say, that if any damage or ill then and there happened to the said *Mary*, it was from the proper assault of the said *Mary*, and in the defence of them the said *Jonatban* and *Henry Mills*, which is the same residue of the trespass and assault aforesaid whereof the said *Joseph* and *Mary* above now complain: And this they are ready to verify: Wherefore they pray judgment if the said *Joseph* and *Mary* ought to have or maintain their action aforesaid thereof against them, &c.

R. Acherly.

L 1

Covenart.

Covenant.

Bagnall against Billingay.

Covenant by *Midd'*, to wit. **H**ENRY Billingay late of *Islington* in the county of *Middlesex* afore-
 a surviving said, innholder, was summoned to answer to *Gibbons Bagnall*, Gent.
 lessor against in a plea that he keep to him the covenant between the said *Gib-*
 tenant for *bons* and one *Robert Butler* deceased, whom the said *Gibbons* survived in the life-time of the
 years. said *Robert* made according to the force, form and effect of a certain indenture thereof be-
 Pract. Reg. tween them made: And whereon the said *Gibbons* by R. C. his attorney says, that whereas
 345. 352. Indenture of by a certain indenture made at *Islington* aforefaid in the county aforefaid, on the 28th day
 lease. of *April* in the year of the Lord 1710, between the said *Gibbons* and *Robert* in the life-time
 of the said *Robert*, by the names of *Gibbons Bagnall* of *London*, Gent. and *Robert Butler* of
Chelsea in the county of *Middlesex*, Gent. of the one part, and the said *Henry Billingay*, by
 the name of *Henry Billingay* of *Islington* in the county of *Middlesex*, innholder, of the other
 part, which other part sealed with the seal of the said *Henry* the said *Gibbons* here in court
 produces, the date whereof is the same day and year abovefaid, the said *Gibbons* and *Ro-*
bert in the life-time of the said *Robert*, for the consideration in the same indenture men-
 tioned, had demised and to farm let, and each of them had demised and to farm let,
 and then by the same indenture did demise and to farm let, and each of them did de-
 mise and to farm let, to the same *Henry Billingay* all that messuage or inn consisting of a
 certain four-square building, which said messuage or inn was then called or known by the
 name or sign of the *Angel*, situate and being in or near *Islington* aforefaid in the parishes
 of *St. James Clerkenwell* and *Islington* aforefaid, or one of them, in the county of *Middle-*
sex aforefaid, and then was in the tenure or occupation of the said *Henry Billingay*, and all
 that little close or parcel of land lying behind the said messuage, containing by estimation
 two acres or thereabouts, and all those sheep-houses, with all sheep-pens standing and
 being under the said sheep-houses, and all and singular out-houses, edifices, buildings,
 barns, stables, chambers, rooms, cellars, solars, yards, gardens, backfides, ways, waters,
 water-courses, easements, profits, commodities and appurtenances whatsoever to the said
 messuage, tenement or inn, close of land and sheep-houses belonging or any ways ap-
 pertaining; and also so much of the close called *Conduit Field* as then was fenced, con-
 taining by estimation 26 acres and two roods, be it more or less, one close or parcel
 of land, commonly called or known by the name of the *Great Stonyfield*, containing by
 estimation 13 acres and 21 perches, more or less, and one other close or parcel of land
 called, &c. (reciting several other parcels) all which said closes or parcels of land are
 parcel of the manor of *Barnesbury*, otherwise *Barnadbury*, lying in or near to *Islington*
 aforefaid in the parishes of *St. James Clerkenwell* and *Islington* aforefaid, or one of them,
 in the said county of *Middlesex*, and then were in the tenure and occupation of the said
Henry Billingay, together with free liberty of ingress and regress to and for the said
Henry Billingay, his executors, administrators and assigns, with his and their horses, carts
 and all other kind of cattle, into, out of and from the said premises by the indenture
 aforefaid demised, during the continuance of the lease aforefaid, with all advantages and
 privileges thereunto belonging, to which or with which the said *Gibbons Bagnall* and *Robert*
Butler,

Butler, or either of them, could any way intitle and accommodate him the said *Henry Billingay* concerning the premises aforesaid by the said indenture demised; saving and excepting to all and every person and persons such right of any way or ways, passage or passages, in, thro' and from the said premises, or any part thereof, which to them then belonged and had been by them enjoyed; To have and to hold the said messuage, tenement or inn, the little close or parcel of land lying behind the said messuage, and all and singular the aforesaid other closes or parcels of land, and other the premises, by the said indenture before demised or mentioned so to be, with their and every of their appurtenances (except before excepted) unto the said *Henry Billingay*, his executors, administrators and assigns, from the feast-day of *St. Michael* the Archangel then next following the date of the said indenture unto the full end and term of five years from thence next ensuing and fully to be compleat and ended; Yielding and paying therefore yearly and every year during the said term unto the said *Gibbons Bagnall* and *Robert Butler*, their heirs and assigns, the rent or sum of 500 *l.* of lawful money of *Great Britain* at the four most usual feast-days or terms of the year, that is to say, the feast-day of the Birth of our Lord *Jesus Christ*, the feast-day of the Annunciation of the Blessed Virgin *Mary*, the feast-day of *St. John* the Baptist, and the feast-day of *St. Michael* the Archangel, by even and equal portions: And the said *Henry Billingay* for himself, his heirs, executors, administrators and assigns, and for every of them, did covenant, promise and grant to and with the said *Gibbons Bagnall* and *Robert Butler*, their heirs and assigns, by the said indenture, that he the said *Henry Billingay*, his executors, administrators and assigns, during the said term by the said indenture demised, would well and truly pay, or cause to be paid, to the said *Gibbons Bagnall* and *Robert Butler*, their heirs and assigns, the said yearly rent and sum of 500 *l.* of lawful money of *Great Britain*, and every part thereof, in such manner and payments as in the said indenture were before-mentioned and expressed, as by the same indenture, among other things, is more fully manifest and doth appear: By virtue of which said demise the said *Henry Billingay* afterwards, to wit, on the morrow of the said feast of *St. Michael* the Archangel next after the date of the indenture aforesaid, into the said messuage or inn, and all and singular other the demised premises aforesaid with the appurtenances entred, and was thereof possessed always from thence after until and after the feast-day of *St. Michael* the Archangel in the year of the Lord 1713: And the same *Gibbons* in fact says, that after the making of the indenture of demise aforesaid, to wit, on the 10th day of *March* in the 12th year of the reign of the Lady *Anne*, now Queen of *Great Britain*, &c. the said *Robert Butler* at *Islington* aforesaid in the county aforesaid died; and the said *Gibbons Bagnall* him the said *Robert Butler* survived, and was seised of the reversion of the messuage and tenements aforesaid with the appurtenances above demised in his demesne as of fee, by right of survivorship: And altho' he the said *Gibbons* and the said *Robert Butler* in the life-time of the said *Robert*, and he the said *Gibbons* after the death of the said *Robert*, always from the said time of the making of the indenture of demise aforesaid hitherto have well and truly performed and fulfilled all and singular the covenants, grants and agreements in the indenture of demise aforesaid contained, on the part of the said *Gibbons Bagnall* and *Robert Butler*, their heirs and assigns, to be performed and fulfilled, by protesting, that the said *Henry Billingay* hath not performed or fulfilled any covenants or grants in the same indenture contained on the part of the said *Henry Billingay*, or his assigns, to be performed and fulfilled, in fact the same *Gibbons* says, that at the feast-day of the Nativity of *St. John* the Baptist now last past 125 *l.* of the yearly rent aforesaid, for one quarter of a year then ended at the same feast, to the same *Gibbons* after the death of the said *Robert* were in arrear and unpaid, and that the said *Henry* did not pay the same *Gibbons* the same 125 *l.* at that feast-day; and that at the feast-day of *St. Michael* the Archangel now last past other 125 *l.* of the yearly rent aforesaid, for another quarter of a year then ended at the same feast, to the same *Gibbons Bagnall* after the death of the said *Robert Butler* became in arrear and were unpaid, and that the said *Henry* did not pay to the same *Gibbons* the same 125 *l.* at that feast-day; which said several sums of money the said *Henry Billingay* ought to have paid to the same *Gibbons Bagnall* at those several feast-days, according to the form and effect of the indenture aforesaid, but those several sums of money are yet unpaid: And so the said *Gibbons Bagnall* says, that the said *Henry Billingay*, altho' often required, his covenant with the same *Gibbons* and the said *Robert Butler* in his life-time as aforesaid made to the same *Gibbons Bagnall* after the death of the said *Robert* hath not kept, but hath unjustly broke it, and hath hitherto altogether denied, and yet doth deny to keep it with him, to the damage of him the said *Gibbons Bagnall* 500 *l.* And therefore he produces the suit, &c.

Exception.

Habendum.

Reddendum.

Covenant to pay the rent.

Entry of the defendant.

Averment of the death of one of the lessors.

Averment of performance, &c. on the plaintiff's part.

Breach in non payment of two quarters rent.

Child against Howe.

Covenant against an administratrix.

Midd^x, to wit. **J**OHNS Child, Esq; complains of *Lucy Howe*, widow, administratrix of all and singular the goods and chattels, rights and credits, which belonged to *Thomas Howe*, Esq; her late husband deceased, otherwise lately called, &c. in the custody of the marshal, &c. in a plea of breach of covenant for this, to wit, that whereas by a certain indenture made at *Westminster* in the said county of *Middlesex* on the 24th day of *April* in the year of the Lord 1700, between the said *Thomas Howe* in his life-time, by the name of *Thomas Howe* of the *Inner Temple, London*, Esq; of the one part, and him the said *John Child*, by the name of *John Child* of the *Middle Temple, London*, Esq; of the other part; one part of which said indenture, sealed with the seal of the said *Thomas Howe* in his life-time, the same *John Child* here in court produces, the date whereof is the same day and year, reciting, among other things, that whereas the said *Thomas Howe* was indebted to the said *John Child* by a certain note under his hand in the sum of 39 l. for which sum he had agreed to pay interest, he the said *Thomas Howe* (among other things) did covenant with the said *John Child* to pay him the said 39 l. with interest accordingly, as by the same indenture, among other things, more fully appears: And the said *John Child* by protesting that the said *Thomas Howe* in his life-time, or the said *Lucy* after the death of the said *Thomas*, have not performed any covenants or grants in the indenture aforesaid contained on his part to be performed, in fact says, that the said *Thomas Howe* before the making of the said indenture, to wit, on the 16th day of *October* in the 11th year of the reign of the Lord the now King at *Westminster* aforesaid, by his note aforesaid, became and was to the same *John Child* indebted in the sum aforesaid; and that he the said *Thomas Howe* in his life-time, or the said *Lucy* after the death of him the said *Thomas Howe*, altho' often required, the said 39 l. with interest, or any part thereof, to the same *John* have not paid, nor hath either of them paid, but have refused to pay him the same, and the said *Lucy* doth yet refuse to pay him them; to which said *Lucy*, after the death of the said *Thomas*, administration of all and singular the goods and chattels, rights and credits, which belonged to the said *Thomas* at the time of his death, was duly committed, to wit, at *Westminster* aforesaid: And so the said *John Child* says, that the said *Thomas* in his life-time, and the said *Lucy* after the death of him the said *Thomas*, altho' often required, the covenant of the said *Thomas* aforesaid in this behalf with the said *John* as aforesaid made to the same *John* have not performed, but have wholly broke it, and have denied to perform it to him, and the said *Lucy* doth yet altogether deny to perform it to him, to the damage of the said *John Child* 50 l. And therefore he produces the suit, &c.

Breach.

Covenant by a devisee against the assignee of a term.

Seisin in fee.

Lease made.

South'ton, to wit. **A**. L. widow, complains of *J. E. Knt. T. H. Esq;* and *M. F.* assignees of *T. H. Esq;* deceased, being in the custody of the marshal of the *Marshalsea* of the Lord the King before the King himself, in a plea of breach of covenant for this, to wit, that whereas one *A. M.* widow, on the 8th day of *June* in the year of the Lord 1652, was seised in her demesne as of fee of and in one messuage or tenement and farm, with the appurtenances, called *Abbotts Barton*, otherwise *H. B.* situate and being in the parish of *St. B.* near the city *W.* in the county of *S.* aforesaid; and being so thereof seised the same *A. M.* by her indenture made the 8th day of *June* in the year aforesaid, at the parish of *St. B.* in the county of *S.* aforesaid, between her the said *A. M.* by the name of *A. M.* of *W.* in the parish of *E.* in the county of *S.* widow, of the one part, and the said *T. H.* in his life-time, by the name of *T. H.* of *H. P.* in the county of *B.* Esq; of the other part, which other part sealed with the seal of the said *T. H.* in his life-time the same *A. L.* here in court produces, bearing date the same day and year, did demise, grant and to farm let, to the said *T. H.* in his life-time, all that messuage or tenement and farm, with the appurtenances, called or known by the name of *A. B.* otherwise *H. B.* situate and being in the parish of *St. B.* near the city *W.* in the said county of *S.* and all and singular houses, edifices, buildings, barns, stables, yards, orchards, gardens, back-sides, lands and tenements, meadows, pastures, feedings, commons, common of pasture, ways, waters, watercourses, easements, profits, advantages, emoluments and hereditaments whatsoever to the said messuage, tenement or farm, belonging or in any wife appertaining, or to or with the same demised, used, occupied or enjoyed, or accepted, reputed, taken or known as part, parcel or member of the said messuage or farm, or thereunto belonging, with their and every of their appurtenances, (except and alway reserved out of the said demise to the said *A. M.* her executors and assigns, all timber and timber-trees, and trees of all kind whatsoever then standing, growing

ing or being in or upon the premises, or any part thereof, with free ingress and regress with her or their carts and carriages or servants, to fell, cut down and carry away the same at her and their will and pleasure during the term by the said indenture granted; To have *habendum.* and to hold the messuage, farm, lands, tenements, meadows, pastures, feedings, and all and singular other the premises by the said indenture before mentioned and demised, and every part and parcel thereof, with their and every of their appurtenances, (except before excepted) to the said *T. H.* his executors, administrators and assigns, from the feast of *St. Michael* the Archangel next ensuing the date of the said indenture unto the full end and term of 21 years from thence next ensuing and fully to be compleat and ended; yielding *Reddendum.* and paying therefore yearly and every year during the said term to the said *A. M.* her executors or assigns, at or in the common dining-hall of *Lincoln's Inn* in the county of *Middlesex*, the rent or sum of 200 *l.* of lawful money of *England* at two usual feasts and terms in the year, that is to say, on the feast of the Annunciation of the Blessed Virgin *Mary* and *St. Michael* the Archangel by even and equal portions: And the said *T. H.* in his life-time for himself, his executors and administrators, did covenant and grant to and with the said *A. M.* her executors, administrators and assigns, by the said indenture, that he the said *T. H.* his executors, administrators and assigns, or some of them, from time to time, and at all times then after during the said term, at his and their own proper costs and charges would well and sufficiently repair and keep the house, messuage or tenement, barns, stables, outhouses, and other the edifices and buildings then standing in and upon the premises, or any part thereof, in, by and with all and all manner of needful and necessary reparations and materials whatsoever, and also all the hedges, ditches, gates, stiles, fences and water-courses of and belonging to the said premises, with hedges, ditches, gates, stiles, fences and cleansing, when, where, and as often as need should require, would likewise repair, scour, cleanse, maintain and keep, and the said messuage or tenement, barns, stables, edifices and other the premises, so well and sufficiently repaired, maintained, hedged, ditched, fenced and kept, at the end and expiration, or other sooner determination of the said term, would peaceably and quietly into the hands and possession of the said *A. M.* her executors or assigns, leave and deliver, as by the same indenture, among other things, is more fully manifest and appears: By virtue of which said demise the same *T. H.* in his life-time into the tenements aforesaid with the appurtenances entred, and was thereof possessed, the reversion of the tenements aforesaid to the said *A. M.* and her heirs belonging: And the said *T. H.* of the tenements aforesaid with the appurtenances being so as aforesaid possessed, and the said *A. M.* being of the reversion of the tenements aforesaid seised in her demesne as of fee, the said *T. H.* afterwards, to wit, on the 20th of *February* in the year of the Lord, *83c.* at the parish of *St. B.* in the county of *S.* aforesaid, made his last will and testament in writing, and then and there constituted the said *J. E. T. H.* and *M. F.* his executors of his said will, and afterwards there died of the tenements aforesaid with the appurtenances, as is before mentioned, possessed; after whose death the said *J. E. T. H.* and *M. F.* took upon themselves the execution of the said will, and into the said tenements with the appurtenances, to the same *T. H.* in form so as aforesaid demised, entred, and were thereof possessed, the reversion of the tenements aforesaid to the said *A. M.* and her heirs as aforesaid belonging, of which said reversion the said *A. M.* was seised as aforesaid in her demesne as of fee: And the said *A. M.* so of the reversion of the tenements aforesaid, as is before mentioned, being seised, the same *A. M.* afterwards, to wit, the 23d day of *April* in the year of the Lord, *83c.* at the parish of *St. B.* in the county aforesaid, made her last will and testament in writing, and by the same last will, among other things, willed and devised all the said tenements with the appurtenances to *J. L.* Knight of the *Bath* deceased, and to the said *A. L.* then the wife of the said *J. L.* and the survivors of them, for and during their lives and the life of the survivor of them, and afterwards, to wit, on the last day of *April* in the 15th year of the reign of the Lord *Charles* the Second, now King of *England*, *83c.* at the said parish of *St. B.* in the county of *S.* aforesaid died of the reversion of the tenements aforesaid with the appurtenances in form aforesaid seised; after whose death the said *J. L.* and *A.* his wife, by virtue of the devise aforesaid, were seised of and in the said reversion of the tenements aforesaid, with the appurtenances, in their demesne as of freehold for the term of their lives and the life of the longer liver of them; and afterwards, to wit, on the last day of *December* in the 20th year of the reign of the said Lord the now King, at the said parish of *St. B.* in the county of *S.* aforesaid, the said *J. L.* died of such his estate therein seised, and the said *A. L.* him the said *J. L.* then and there survived, and was and yet is thereof sole seised in her demesne as of freehold: And the same *A. L.* farther says, that altho' she the said *A. M.* in her life, and the said *J. L.* and *A. L.* in the life-time of the said *J.* after the death of the said *A. M.* and the said *A. L.* after the death of the said *J. L.* well and faithfully performed and fulfilled all and singular the covenants, grants and agreements in the indenture aforesaid above specified on the part of them the said *A. M.* *J. L.* and *A. L.* to be observed, performed and fulfilled, according to the force, form and effect of the indenture aforesaid; yet the

*habendum.**Reddendum.*

Covenant to repair.

Entry of the lessee.

The executors of the lessee enter.

Lessor devises the premises to two for their lives.

One of the devisees dies.

Breach assigned.

the same *A. L.* in fact says, that during the term aforesaid, and after the death of the said *T. H.* to wit, 28th day of *S.* in the 25th year of the reign of the Lord *Charles* the Second, now King of *England*, &c. the glass was broke, spoiled, taken and torn from the windows of the messuage aforesaid, containing 40 feet, to the value of 40 *s.* and the same messuage of the price of 200 *l.* for want of sufficient tiling, plaistering and glazing, was ruinous, unrepaired and in decay, so that by the rain falling thereon, and by force of the wind blowing thereon, the timber of the said messuage and of the chambers, stables, rooms and other the buildings aforesaid, to the same messuage belonging, to the value of 50 *l.* became rotten, spoiled and decayed, and by reason thereof the messuage aforesaid is daily in danger of falling, and was greatly hurt and detrimented: And the said *J. E. T. H.* and *M. F.* during the term aforesaid and after the death of the said *T. H.* to wit, the same day and year last mentioned, suffered the dove-house belonging to the said messuage, and parcel of the premises above as aforesaid demised, of the price of 5 *l.* to be and stand unrepaired for want of walling, daubing and plaistering thereof; they suffered likewise the great barn, malt-house and hay-house, other parcel of the premises as aforesaid demised, of the price of 20 *l.* to be and stand uncovered and in decay for want of walling, daubing, plaistering, boarding, joisting, groundselling, tiling, thatching and leading, whereby those premises were daily in danger of rotting and falling; they suffered likewise the garden door and 20 perch of the posts, pails and rails of the garden aforesaid, parcel of the said premises, to be decayed, rotten, broke, thrown down, taken, carried away and spoiled for want of repairing thereof: And the said *J. E. T. H.* and *M. F.* did not repair or amend the tenements aforesaid during the term and before the end of the same, but the said tenements so being in decay and unrepaired as aforesaid, at the end of the term aforesaid, without repairs or amendment thereof left, against the form and effect of the covenant aforesaid in the said indenture as aforesaid mentioned: And so the said *A. L.* says, that the said *J. E. T. H.* and *F. M.* the said covenant of the said *T. H.* to the said *A. L.* altho' often required, &c. have not performed, but have unjustly broke, and have hitherto altogether denied, and yet do deny, to perform it to the same *A. L.* whereby the same *A. L.* says that she is prejudiced, and hath damage to the value of 160 *l.* And therefore she produces the suit, &c.

Morgan and Read.

Covenant against the executrix of an executor because there was an equitable right.

City of *Bristol*, to wit. **J**OHN *Morgan* complains of *Samuel Read* the younger, executor of the last will and testament of *Sarah Bratbron*, widow, who was executrix of the last will and testament of *Roger Bratbron* deceased, otherwise lately called, &c. in the custody of the marshal, &c. in a plea of breach of covenant for this, to wit, that whereas *Richard Taylor* of *Leggs Grange* in the county of *Monmouth*, Gent. and the said *John Morgan*, purchased to them and their heirs of and from the said *Roger Bratbron* several messuages, lands, tenements and hereditaments situate, lying and being in *Cardiffe* and *Whitchurch* in the county of *Glamorgan*; And whereas afterwards by a certain writing made at the city of *Bristol* aforesaid in the county of the said city on the 30th day of *July* in the year of the Lord 1678, reciting the purchase aforesaid; and farther reciting, that whereas one *Henry Tracey*, Esq; claimed and pretended to have a certain annuity of 20 *l.* a year issuing and payable to him by the grant of *Edward Thomas*, Esq; out of the said premises, (among other lands of the said *Edward Thomas*) and that he the said *Roger Bratbron* on the sale thereof had agreed with the said *Richard Taylor* and *John Morgan* at the time of their purchase to indemnify them the said *Richard Taylor* and *John Morgan* from and against the said annuity, he the said *Roger Bratbron*, in performance of the agreement aforesaid, by the same writing for himself, his heirs, executors and assigns, did covenant and grant to and with the said *Richard Taylor* and *John Morgan*, their heirs, executors and assigns, that he the said *Roger Bratbron*, his heirs, executors and administrators, from time to time, and at all times from thenceforth for ever, would well and sufficiently save harmless and keep indemnified the said *Richard Taylor* and *John Morgan*, their heirs, executors and administrators, and their respective tenants, and the several messuages, lands, tenements and hereditaments by them purchased as aforesaid of the said *Roger Bratbron* of and from the said annuity, and also of and from all actions and suits in law and equity, costs, charges, losses, expences and damages whatsoever which should be prosecuted or happen against or to them, or either of them, by the said *Henry Tracey*, or any claiming under him, for or in respect of the annuity aforesaid, or in any wise relating thereto, as by the same writing here in court produced sealed with the seal of the said *Roger Bratbron*, bearing date the day and year last aforesaid, more fully appears:

Covenant to save harmless.

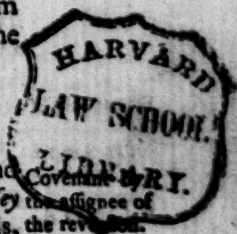
pears: And whereas afterwards, to wit, on the 10th day of *January* in the 31st year of the reign of the said Lord the now King, at the city of *Bristol* aforesaid in the county of the same city, the said *Richard Taylor* died, and the said *John Morgan* survived him: And whereas also afterwards, to wit, on the said 10th day of *January* in the 31st year of the reign of the said Lord the now King aforesaid, the said *Roger Bratbron*, at the city of *Bristol* aforesaid in the county of the same city, made his last will and testament in writing, and by the same then and there constituted and ordained the said *Sarah* his wife executrix of the said will, and afterwards there died; and the said *Sarah* afterwards there proved the said will in due form of law; and afterwards, to wit, the 10th day of *February* in the 32d year of the reign of the said Lord the now King, at the city of *Bristol* aforesaid in the county of the same city, made her last will and testament in writing, and by the same then and there constituted and ordained the said *S. R.* executor of her said will, and afterwards, to wit, on the same 10th day of *February* in the year last aforesaid, at the city of *Bristol* aforesaid in the county of the same city, died: And the said *John* in fact says, that at the time of the purchase of the lands aforesaid the said lands were and yet are chargeable with the said annuity during the life of the said *Henry Tracey* in equity; and that the said *H. T.* after the death of the said *Sarah*, and before the exhibition of this bill, to wit, on the 1st day of *November* in the 33d year of the reign of the said Lord the now King, at the city of *Bristol* in the county of the same city, prosecuted a certain suit in the court of Chancery of the said Lord the King against him the said *John* for the recovery of the annuity aforesaid and the arrears of the same, of which said suit he the said *S. R.* afterwards, to wit, on the 10th day of *January* in the 33d year, &c. at the city of *Bristol* in the county of the same city (pending the suit aforesaid) had notice, and then and there was required to take upon himself the defence of the suit aforesaid, and to supply the expences thereof, which the said *S.* then and there refused to do, and so the same *John* says that the said *S.* although often required, hath not saved harmless and kept indemnified the said *John* and his tenants of and from the suit aforesaid, by the said *H. Tracey* so as aforesaid against him commenced and prosecuted for and concerning the annuity aforesaid, and the covenant of the said *Roger* to the said *John* hath not performed, but broke, and hath hitherto denied, and yet doth deny to perform it to him, whereby the same *John* says that he is prejudiced, and hath damage to the value of 500*l.* And therefore he produces the suit, &c.

Death of the joint purchaser.

Death of the vendor, whose executrix proved his will and died, having first made her will, and the defendant executor.

Breach, that a bill in chancery was filed against him, and defendant had not indemnified him.

London, to wit. **H**ENRY *Ashurst* and *Benjamin Strange* complain of *Roger Mingar* and *William Ferrand*, being in the custody of the marshal of the *Marshalsey* the assignee of the Lord the King before the King himself, in a plea of breach of covenant, for this, to wit, that whereas one *Thomas Glover* of *London*, merchant, was seised of a messuage with the appurtenances, situate in *Gracechurch-street*, *London*, in his demean as of fee, and so being thereof seised the same *Thomas Glover* on the 1st day of *February* in the 22d year of the reign of the Lord *Charles* the Second, now King of *England*, &c. by his certain indenture then made at *London* aforesaid, to wit, in the parish of *St. Mary le Bow* The lease in the ward of *Cheape*, between the said *Thomas Glover*, by the name of *Thomas Glover* of *London*, merchant, of the one part, and the said *Roger Mingar* and *William Ferrand*, by the names of *Roger Mingar* and *William Ferrand* citizens and drapers of *London*, of the other part, which other part, sealed with the seals of the said *Roger Mingar* and *William Ferrand*, the same *Henry Ashurst* and *Benjamin Strange* produce here in court, the date whereof is the day and year aforesaid, the said *Thomas Glover* as well for and in consideration of the sum of 220*l.* of lawful money of *England*, to the same *Thomas* by the said *Roger Mingar* and *William Ferrand*, or one of them, well and truly paid, as for and in consideration of the rent, covenants and agreements after in the said indenture reserved, on the part of the said *Roger Mingar* and *William Ferrand*, their executors, administrators and assigns, to be paid, done and performed, did demise, grant and to farm Demise. let to the said *Roger Mingar* and *William Ferrand* the said messuage or tenement with the appurtenances, by the name of all that messuage or tenement with the appurtenances, situate, lying and being in *Gracechurch-street* aforesaid, on the west side of the said street in the parish of *St. Leonard East-cheape*, next adjoining to a messuage or tenement in the occupation of *David Urry*, ironmonger, on the north side, and the house of one *Henry Aynscombe* on the south side, as the said messuage was then lately rebuilt by the said *Thomas Glover*, and called or known by the name or sign of the *Rose and Crown*, paved in the yard thereto belonging with freestone, together with all solars, cellars, chambers, rooms, shops, lights, easements, ways, water-courses, commodities and appurtenances whatsoever to the said messuage or tenement belonging or appertaining, and



- and particularly a water-course which then ran thro' the yard of the said *Henry Aynscombe*; To have and to hold the said messuage or tenement, with all and singular the before demised premises with the appurtenances, to the said *Roger Mingar* and *William Ferrand*, their executors, administrators and assigns, from the feast-day of the Nativity of our Lord God then last past before the date of the said indenture unto the end and term of 31 years from thence next ensuing and fully to be compleat and ended; Yielding and paying therefore yearly and every year, during the said term to the said *Thomas Glover*, his heirs and assigns, the yearly rent of 70 *l.* of lawful money of *England*, at the four most usual feasts or terms of the year, that is to say, at the feasts of the Annunciation of the Blessed Virgin *Mary*, the Nativity of *St. John* the Baptist, *St. Michael* the Arch-angel, and the Birth of our Lord God, by even and equal portions: And the said *Roger Mingar* and *William Ferrand*, for themselves and each of them, their executors, administrators and assigns, did covenant, promise, grant and agree to and with the said *Thomas Glover* his heirs and assigns, by the said indenture in manner and form following, that is to say, that they the said *Roger Mingar* and *William Ferrand*, their executors, administrators and assigns, or some or one of them, would well and truly pay or cause to be paid to the said *Thomas Glover*, his heirs and assigns, the said yearly rent of 70 *l.* quarterly by equal portions, according to the reservation aforesaid in that behalf, as by the indenture aforesaid among other things is more fully manifest and appears: By virtue of which said demise the said *Roger Mingar* and *William Ferrand* into the messuage aforesaid with the appurtenances entered, and were thereof possessed for the term aforesaid above demised; and being so thereof possessed (the reversion thereof to the said *Thomas Glover* and his heirs belonging) the said *Thomas Glover* afterwards, to wit, on the 21st day of *March* in the 29th year of the reign of the said Lord the now King, at *London* aforesaid in the parish and ward aforesaid, by a certain indenture of bargain and sale then and there made between the said *Thomas Glover* on the one part, and the said *Henry Asburst* and *Benjamin Strange*, and one *Giles Rawlins* now deceased, of the other part, one part whereof, sealed with the seal of the said *Thomas Glover*, the same *Henry* and *Benjamin* produce here in court, the date whereof is the day and year last mentioned, for and in consideration of 5 *s.* of lawful money of *England*, by them the said *Henry Asburst*, *Benjamin Strange* and *Giles Rawlins*, then and there in hand paid, bargained and sold to the said *Henry Asburst*, *Benjamin Strange* and *Giles Rawlins*, (among other things) the reversion of the said messuage with the appurtenances; To have and to hold to them and their assigns from the day next before the date of the said indenture for one year then next following: By virtue of which said bargain and sale, and by force of the statute for transferring uses into possession made and provided, the said *Henry Asburst*, *Benjamin Strange* and *Giles Rawlins*, were possessed of the reversion of the messuage aforesaid with the appurtenances for the term of one year aforesaid; and so being thereof possessed the said *Thomas Glover* afterwards, to wit, on the 22d day of *March* in the 29th year above said, at *London* aforesaid in the parish and ward aforesaid, by a certain indenture tripartite then and there made between the said *Thomas Glover* and *Rebecca* his wife of the first part, *Maximilian Bard*, *William Bard* and *Rebecca* his wife, of the second part, and the said *Henry Asburst*, *Benjamin Strange* and *Giles Rawlins*, of the third part, one part of which said indenture, sealed with the seal of the said *Thomas Glover*, the same *Henry Asburst* and *Benjamin Strange* produce here in court, the date whereof is the day and year last mentioned, for and in consideration of the sum of 3000 *l.* of lawful money of *England* to the said *Thomas* in hand paid, did release (among other things) the reversion of the messuage aforesaid with the appurtenances to the said *Henry Asburst*, *Benjamin Strange* and *Giles Rawlins*, then being in possession of the reversion of the messuage aforesaid with the appurtenances as is aforesaid; To have and to hold the reversion of the messuage aforesaid with the appurtenances to the said *Henry Asburst*, *Benjamin Strange* and *Giles Rawlins*, their heirs and assigns, to the only use and behoof of the said *Henry Asburst*, *Benjamin Strange* and *Giles Rawlins*, their heirs and assigns for ever, as by the indenture tripartite aforesaid among other things is more fully manifest and appears: By virtue of which said release the said *Henry Asburst*, *Benjamin Strange* and *Giles Rawlins*, of the reversion of the messuage aforesaid with the appurtenances were seised in their demean as of fee; and afterwards, to wit, on the 10th day of *May* in the 30th year of the reign of the said Lord the now King, the said *Giles Rawlins* at *London* aforesaid in the parish and ward aforesaid died, and the said *Henry Asburst* and *Benjamin Strange* him the said *Giles* survived, and were seised of the reversion aforesaid in their demean as of fee by right of survivorship, &c. And the same *Henry* and *Benjamin* in fact say, that although the said *Thomas Glover* from the time of the making of the indenture of demise aforesaid until the said 21st day of *March* in the 29th year above said, and the said *Henry* and *Benjamin* from the said 21st day of *March* in the 29th year above said, hitherto have well and faithfully observed and performed all and singular the covenants and grants in the indenture of demise aforesaid contained, on the part of the said *Thomas Glover* and his assigns to be performed and fulfilled; protesting also, that the said *Roger Mingar* and *William Ferrand* have not performed
- Habens**
- Riddens**
- Covenant to pay the rent.**
- Entry of the lessee.**
- Bargain and sale of the reversion.**
- Statute of uses.**
27 H. 8. c. 10.
- Release of the reversion.**
- Seisin of the reversion.**
- Survivorship.**

performed or fulfilled any of the covenants or grants in the same indenture contained on the part of the said *Roger Mingar* and *William Ferrand*, or their assigns, to be performed and fulfilled, in fact the same *Henry* and *Benjamin* say, that 175*l.* of the said yearly rent of 70*l.* Breach. as aforesaid, reserved for two whole years and half a year ended in and upon the feast-day of *St. Michael* the Archangel in the 31st year of the reign of the said Lord the now King, were and yet are in arrear and unpaid to the said *Henry Alburst* and *Benjamin Strange*; which said 175*l.* the said *Roger Mingar* and *William Ferrand* have not, nor hath either of them yet paid to the same *Henry* and *Benjamin*, or either of them, according to the form and effect of the indenture aforesaid: And so the said *Henry* and *Benjamin* say, that the said *Roger Mingar* and *William Ferrand*, altho' often required, the covenant between the said *Thomas Glover* and them the said *Roger Mingar* and *William Ferrand* in that behalf as aforesaid made have not, nor hath either of them, performed to the same *Henry* and *Benjamin*, but have hitherto altogether denied; and yet do deny to perform it to them, to the damage of the said *Henry* and *Benjamin* 300*l.* And therefore they produce the suit, &c.

And now on this day, to wit, *Wednesday* next after the Octave of *St. Hillary* in this same Imparlance. term, until which day the said *Roger* had leave to imparl to the bill aforesaid, and then to answer, &c. before the Lord the King at *Westminster*, come as well the said *Henry* and *Benjamin* by their attorney aforesaid, as the said *Roger* by *John Lilly* his attorney: And the said *William Ferrand*, altho' solemnly called, comes not, nor says any thing in bar or preclusion of the action of the said *Henry* and *Benjamin*, whereby the same *Henry* and *Benjamin* remain against the said *William* therein undefended, &c. wherefore the same *Henry* and *Benjamin* ought to recover their damages by reason of the premisses against the said *William*; but because it is convenient that there should be but one taxation of damages in this behalf, Therefore let the taxation of damages against the said *William* stay until the plea of damages. One taxation between the said *Henry* and *Benjamin* and the said *Robert* is determined: And the same *Roger* says, that the said *Henry* and *Benjamin* ought not to have or maintain their action aforesaid thereof against him, because he says, that well and true it is that the said *Thomas Glover* was seised of the messuage aforesaid with the appurtenances in his demesne as of fee; and being so thereof seised demised the messuage aforesaid with the appurtenances to the said *Roger Mingar* and *William Ferrand* for the term aforesaid, and that they the said *Roger* and *William* by virtue thereof were jointly possessed in manner and form as the said *Henry* and *Benjamin* above have declared; but the said *Roger* farther says, that long before the feast of *St. Michael* the Archangel in the 31st year aforesaid, they the said *Roger* and *William Ferrand* so being jointly possessed, and the said *Thomas Glover* so being seised of the reversion aforesaid, the said *Roger*, with the assent and consent of the said *Thomas Glover*, on the 20th day of *February* in the 24th year of the reign of the said Lord the now King, at *London* aforesaid in the parish and ward aforesaid, by his certain indenture then and there made between him the said *Roger*, by the name of *Roger Mingar*, citizen and *London*, of the one part, and the said *William Ferrand*, by the name of *William Ferrand*, citizen also and *London*, of the other part, one part whereof sealed with the seal of the said *William Ferrand* the same *Roger* produces here in court, the date whereof is the same day and year last aforesaid, reciting, that whereas *Thomas Glover* of *London*, merchant, by indenture of demise under his hand and seal, bearing date the first day of *February* in the 22d year of the reign of the said Lord the now King, for the consideration in the said indenture mentioned, had demised, granted and to farm let to the said *Roger Mingar* and *William Ferrand* all that messuage or tenement with the appurtenances, situate, lying and being in *Gracechurch-street*, on the west side of the said street in the parish of *St. Leonard Eastcheape* next adjoining to a messuage or tenement in the occupation of *David Urry*, &c. To have and to hold the said messuage or tenement, and all and singular other the before demised premisses, with the appurtenances, to the said *Roger Mingar* and *William Ferrand*, their executors, administrators and assigns, from the feast-day of the Nativity of our Lord then last past, before the date of the said recited indenture of demise, unto the full end and term of 31 years from thence next ensuing and fully to be compleat and ended; and also reciting, that the said *Roger Mingar* and *William Ferrand* had been for sundry years then last past partners and joint traders in the trade of a woollen draper in buying and selling cloth and other goods and commodities, which said copartnership, by the mutual consent of them the said *Roger Mingar* and *William Ferrand*, was determined and broke off; and reciting farther, that whereas it was agreed by the mutual consent of the said parties, that at the end or dissolution of the said copartnership the said *William Ferrand* should have the said messuage and the whole term then to come and unexpired demised; he

whereby he became sole possessed ;

whom the lessor accepted for his sole tenant, and received the rent of him.

he the said *Roger*, for and in consideration of the sum of 183*l.* of lawful money of *Eng. land* to him in hand paid by the said *William Ferrand* at and before the sealing and delivery of the said indenture, and also in pursuance of the said agreement, did grant, bargain, sell, release and assign by the said indenture to the said *William Ferrand* a moiety of the messuage or tenement aforesaid in the declaration aforesaid mentioned; and of all and singular other the premises with the appurtenances by the said indenture of demise leased, and also the right, title, interest, term of years then remaining and to come, property, claim and demand whatsoever of him the said *Roger* in the same, by reason whereof he the said *William* was sole seised of and in the messuage aforesaid with the appurtenances for and during the term aforesaid; and thereupon he the said *Thomas Glover* then and there demised to the said *Roger* a certain other messuage, situate and lying in *London* aforesaid in the parish aforesaid, for the term of twenty-one years then next ensuing, under the yearly rent of 70*l.* yearly to be paid during that term, and then and there accepted him the said *William Ferrand* for his sole tenant of the messuage aforesaid above in the declaration mentioned: And afterwards, to wit, on the 12th day of *May* in the 24th year of the reign of the said Lord the now King, at *London* aforesaid in the parish and ward aforesaid, received of him the said *William Ferrand* the sum of 17*l.* and 10*s.* for the rent of the said messuage for one quarter of a year ended at the feast of the Annunciation of the Blessed Virgin *Mary* then last past: And this the same *Roger* is ready to verify: Wherefore he prays judgment if the said *Henry* and *Benjamin* ought to have or maintain their action aforesaid thereof against him, &c.

Note; *There was a demurrer to this plea, which was argued several times, but it was agreed before judgment; the court inclined that the action was well brought on the covenant, and that the plea on the matter was ill.*

Covenant on a bill of sale of goods,

Warranty.

Breach.

Hertford, to wit. **A** *Andrew Hackett* late of the town of *Hertford* in the county aforesaid, Esq; was summoned to answer to *Josiah Glover* in a plea, that he perform to him the covenant between them made according to the force, form and effect of a certain writing by the same *Andrew* to the same *Josiah* thereof made, &c. And whereon the same *Josiah* by *William Allington* his attorney says, that the said *Andrew* on the 27th day of *November* in the year of the Lord 1708, at the town of *Hertford* aforesaid, by his certain writing sealed with his seal and here in court produced, bearing date the same day and year, for and in consideration of the sum of 48*l.* 10*s.* of lawful money of this kingdom to him in hand paid by the said *Josiah*, did bargain and sell, and deliver to the said *Josiah*, the goods and things in the schedule to the same writing subscribed; To have and to hold to the said *Josiah*, his executors, administrators and assigns, to the only use and behoof of the said *Josiah*, his executors, administrators and assigns for ever; and he the said *Andrew* by the said writing covenanted with the same *Josiah*, that he the said bargained premises to the said *Josiah*, his executors, administrators and assigns, against all persons would warrant and for ever defend by the said writing, as by the said writing with the schedule aforesaid annexed more fully is manifest and appears: And the same *Josiah* in fact says, that the premises aforesaid so sold, and in the schedule aforesaid mentioned, are certain goods and chattels in the brew-house, malt-house and outhouses then late of *John Wallis*, situate in the said town of *Hertford*, and were and are a certain kiln-wire and all iron backs of chimnies in the said house, and all hasps, iron posts and keys in the said house, all leaden pipes and brass locks thereto belonging; the little stove in the kitchen, an iron oven-lid, all the shelves and dressers, all the ladders used about the house, the pump and dial, two coppers in the brew-house, one brass candlestick, one mash-fat, an under-back, a table leaf, a trough, a pair of still-yards, a pair of tongs, a fire-shovel, two pair of dogs, two pot-hangers, two brass kettles, one table, two joint-stools, a jack, two coolers, two under-runs, fourteen tubs, a jett, a funnel, a leaden pipe and a brass cock: And the same *Josiah* in fact says, that the said *Andrew* at the time of the making the said writing had no interest, possession or property of or in the said goods and chattels, or any part thereof, but the true property thereof then was in one *John Hall*, and so the said *Andrew*, although often required, his covenant aforesaid with

with the said *Josiah* above in this behalf made hath not performed to him, but broke, and hath altogether denied and yet doth deny to perform it to him, to the damage of the said *Josiah* 50*l.* And therefore he produces the suit, &c.

And the said *Andrew* by *C. N.* his attorney comes and defends the force and injury, &c. Demurrer to and says that the declaration aforesaid, and the matter in the same contained, are not sufficient in law for the said *Josiah* to maintain his action aforesaid against him the said *Andrew* had; and that he to that declaration hath no necessity, nor is by the law of the land obliged to answer: And this he is ready to verify: Wherefore for want of a sufficient declaration in this behalf the said *Andrew* prays judgment, and that the said *Josiah* may be precluded from his action aforesaid had, &c. And for causes of demurrer in law upon that declaration, the same *Andrew*, according to the form of the statute in such case made and provided, doth set down and to the court here expresses these causes following, to wit, Because by the declaration aforesaid no place or county is alledged, from the neighbourhood whereof or from whence a jury should come, to try what the goods or any of them in the said schedule contained were, or whether the property of the goods and chattels in the same declaration specified at the time of the making the writing aforesaid, in the said declaration mentioned, was to the said *Andrew* or to the said *John Hall*: And because it don't appear by what name the said *Andrew* is called, or what addition he has in the writing aforesaid, as it ought, so that it might manifestly appear that he is the same who is named in the said writing, and that because the declaration aforesaid is in itself insensible and contradictory; alledging first, that at the time of the making of the said writing the same *Andrew* by the writing aforesaid sold and delivered the said goods and chattels in the same declaration mentioned, and afterwards that the said *Andrew* at the same time of the making of the same writing had no possession or property of or in the same goods and chattels; and also because it is not alledged expressly and affirmatively that there was any schedule to the same writing annexed, whereon any issue can be taken or joined, and because the same declaration is altogether incertain, and wants form, &c.

And the said *Josiah*, for that he hath above alledged sufficient matter in law to maintain Joinder. his declaration aforesaid, which he is ready to verify, which said matter the same *Andrew* doth not deny, nor any way answer thereto, but doth wholly refuse to admit that averment, prays judgment, and his damages by reason of the breach of covenant to be adjudged to him, &c.

The causes.
27 El. c. 5.
4 Ann. c. 16.

London, to wit. **E** *Edward B.* and *Samuel K. Gent.* complain of *Thomas V.* executor of the last will and testament of *John H.* deceased, otherwise lately called *John H.* of the parish of *St. James* within the liberty of *Westminster* in the county of *Middlesex*, Gent. in the custody of the marshal, &c. in a plea of breach of covenant, for this, to wit, that whereas the said *John H.* in his life-time, to wit, on the 21st day of *August* in the year of the Lord 1720. at *London* aforesaid in the parish of *St. Mary le Bow* in the ward of *Cheape*, by his certain writing, sealed with the seal of the said *John H.* in his life-time, and here in court produced, bearing date the same day and year, for himself, his heirs, executors and administrators, did covenant, promise and agree to and with the said *Edward B.* by the name of *Edward Borgan*, citizen and *Barber Surgeon* of *London*, and the said *S. K.* by the name of *S. K.* of the parish of *St. Dunstan*, *London*, Gent. their executors, administrators or assigns, jointly and severally, that before or on the first day that the transfer-books of the governor and company of merchants of *Great Britain* trading to the *South-Seas* and other parts of *America*, and for the promoting of the fishery, &c. should be open for publickly transferring shares, credit or interest, in the capital stock of the said company, after the Birth of our Lord then next ensuing, he the said *John H.* his executors, administrators or assigns, would accept and receive, or cause to be accepted and received of and from the same *E. B.* and *S. K.* their executors, administrators or assigns, 200*l.* share, credit or interest in the said capital stock of the governor and company aforesaid, to be transferred by the said *E. B.* and *S. K.* their executors, administrators or assigns, or any of them, with all dividends, profits and emoluments, due and payable for the same at and to *Midsummer* then last past, and which then after were or should be voted, ordered and become payable for the same, until the Birth of our Lord then next ensuing: And that before or at the time of the transfer thereof, or upon the same first day that the transfer-books of the said company should be open

The covenant set forth.

open after the Birth of our Lord then next ensuing, or upon such day as they by the said *John H.* his executors, administrators or assigns, by notice in writing given or left for the same *Edward B.* and *S. K.* their executors, administrators or assigns, or any of them, at *London* aforesaid, at the mansion-house of the said *Edward B.* in *Cannon-street, London*, should be required sooner to transfer, he the said *John H.* his executors, administrators or assigns, would well and truly pay, or cause to be paid for the same, to the said *Edward B.* and *S. K.* their executors, administrators or assigns, the sum of 2100 *l.* of lawful money of *Great Britain*, being after the rate of 1050 *l.* for every 100 *l.* stock, together with all monies which in the mean time should be called in by the said company or otherwise by the said *Edward B.* and *S. K.* their executors, administrators or assigns, or any of them, paid by reason thereof, and interest for such monies from the time of the payment thereof, as by the writing aforesaid, among other things, more fully appears: And the same *Edward* and *S.* in fact say, that after the 31st day of *August* in the year of the Lord 1720 aforesaid, to wit, on the 19th day of *September* in the year of the Lord 1720 at *London* aforesaid in the parish and ward aforesaid, the said *John H.* in his life-time made his last will and testament in writing, bearing date the same day and year last aforesaid, and thereby constituted and appointed the said *Thomas Vincent* executor thereof; and afterwards, to wit, the 20th day of the same month of *September* in the year of the Lord last aforesaid, at *London* aforesaid in the parish and ward aforesaid died; after whose death, to wit, the same day and year last aforesaid, at *London* aforesaid in the parish and ward aforesaid, he the said *Thomas* in due form of law proved the last will and testament aforesaid, and took upon him the burden of the execution thereof: And that the 1st day of *May* in the year of the Lord 1721 was the first day that the transfer-books of the governor and company aforesaid were open for publickly transferring shares, credit or interest in the capital stock of the said company, after the Birth of our Lord next ensuing the date of the writing aforesaid: And the same *E.* and *S.* farther say, that they the same *E.* and *S.* on the same 1st day of *May* in the year last aforesaid, were from nine of the clock in the morning until to and after one of the clock in the afternoon of the same day at the *South-Sea* house, situated in *Broad-street* in the city of *London* aforesaid, and offered to transfer to the said *T. V.* executor of the said *J. H.* the said 200 *l.* share, credit or interest in the said capital stock, together with 20 *l.* credit capital stock, that being the profit, dividend and emolument, due and payable for the said 200 *l.* share, credit or interest in the same capital stock, at and to *Midsummer* then last past, and on the same first day of *May* in the year last aforesaid, were ready and offered to pay to the same *T. V.* executor of the said *J. H.* as aforesaid, the sum of 11 *l.* of lawful money of *Great Britain*, being the whole dividend, profit and emolument, due and payable for the said 220 *l.* credit in the capital stock aforesaid, until the Birth of our Lord next ensuing the date of the writing aforesaid, according to the form and effect of that writing: And that the said *T. V.* or any other on the behalf of the said *T. V.* did not come, nor was there to accept or receive, or cause to be accepted or received, of and from the said *Edward* and *S.* the said 220 *l.* credit in the stock aforesaid, and the said sum of 11 *l.* nor paid to the same *E.* and *S.* the said sum of 2100 *l.* nor any part thereof at any time hitherto, as he ought to have paid; but the said *T. V.* then and there wholly refused and yet doth refuse to accept it, or to pay the said 2100 *l.* to the same *E.* and *S.* for it: And that he the said *J. H.* in his life-time, or the said *T. V.* as his executor after the death of the said *J. H.* or either of them, or any other person for them or either of them, at any time after the said 31st day of *August* in the year of the Lord 1720 aforesaid, and before the said first day of *May* in the year of the Lord 1721, did not give or leave any notice in writing for the said *E.* and *S.* at the said mansion-house of the said *E. B.* situate in *Cannon-street, London*, aforesaid, to transfer the said 200 *l.* credit or stock in the company aforesaid: And farther the same *E.* and *S.* in fact say that the *South-Sea* house in *Broad-street* aforesaid, on the said 1st day of *May* in the year of the Lord 1721 aforesaid, and long before, was and yet is the place of transferring the stock aforesaid; and that the transfer-books of the said company are, and for all the time aforesaid were, kept in the same house; and that the hours between nine of the clock in the morning and one of the clock in the afternoon are, and on the said first day of *May* in the year of the Lord 1721 aforesaid, and long before and continually afterwards hitherto, were the accustomed and usual hours for transferring the said stock, and no other; so the same *E.* and *S.* say that the said *J. H.* in his

The testator died, and the defendant proved his will.

The plaintiffs attended to transfer.

But none came on the part of the defendant to receive it.

Breach.

No notice given the Plaintiffs.

life-time, and the said *T. V.* after the death of the said *J.* as his executor, have not performed, but broke the covenant aforesaid, and the said *J. H.* in his life-time, and the said *T.* after his death, have altogether refused, and the said *T.* doth yet refuse to perform it to the same *E.* and *S.* to the damage of the said *E.* and *S.* 2300 *l.* And therefore they produce the suit, &c.

London, to wit. **A** *Nibony Townsend*, Esq; complains of *Thomas Lawrence* being in the custody of the marshal of the *Marshalsea* of the Lord and Lady the King and Queen before the King and Queen themselves, in a plea of breach of covenant, for this, to wit, that whereas by a certain indenture made at *London*, to wit, at the parish of *St. Andrew Holborn* in the ward of *Farringdon Within*, on the 20th day of *January* in the year of the Lord 1686, between him the said *Anthony Townsend*, by the name of *Anthony Townsend* of the city of *Coventry*, Esq; of the one part, and the said *Thomas*, by the name of *Thomas Lawrence* of the said city of *Coventry*, ironmonger, of the other part, the other part of which said indenture, sealed with the seal of the said *Thomas*, the same *Anthony* produces here in court, the date whereof is the same day and year, he the said *Anthony Townsend*, for and in consideration of the rent and covenants in the said indenture after reserved and mentioned on the lessee's part to be paid and performed, had demised, granted and to farm let, and by the said indenture did demise, grant and to farm let, to the said *Thomas Lawrence* all that close or parcel of land with the appurtenances, commonly called or known by the several names of the *Oat-close* and the *Smock-shirte*, containing by estimation twenty-three acres or thereabouts, being part of a great meadow at or near *Coventry*, (the common highway leading from *Coventry* to *Stitchball* lying on the west side thereof, another part of the said meadow in the occupation of *Francis Hanson*, Esq; on the east side thereof, another part of the said meadow in the occupation of *John Snell* on the south side thereof, and another part of the said meadow called the *Islands* in the occupation of the said *John Snell* on the north side thereof,) and also a drift and bridle-way, and a way for carts, wains and carriages through a gate called *Cbildsmore-gate*, and so by the said part of the said meadow in the occupation of the said *Francis Hanson*, Esq; at all times, together with all hedges, gates, ditches, fences, mounds, ways, waters, passages, easements and commodities whatsoever to the said demised premises belonging or with the same used or enjoyed, (except and alway reserved to *Edward Rogers* of the said city, taylor, and all others who then after should become occupiers of that part of the said meadow then in the occupation of the said *Edward Rogers*, a bridle and drift-way to the same through the premises by the said indenture above demised, and also a bridle and drift-way to and for the said *John Snell*, and all others who then after should become occupiers of that part of the said meadow then in the occupation of the said *John Snell*, at all times, and a way for carts, carriages and wains, through the same at all times, (except such time as there should be mowing grafs or standing corn upon the same,) also except and alway reserved to the said *Anthony Townsend*, his executors, administrators and assigns, free passage in, by and through all foot-ways, as also for coaches, carts, horses, and wains in, by and through all highways then left or used in the said pieces of land by the said indenture demised, except also to the said *Anthony Townsend* all game and liberty to hawk, hunt, fish and course in any part of the premises at usual and proper times, and also except to the said *Anthony Townsend* all trees and the lops, tops and shreds of trees, with liberty to cut, fell, cart or otherwise carry away the same); To have and to hold the said demised closes or parcels of land with their and every of their appurtenances, (except as before excepted) to the said *Thomas Lawrence*, his executors, administrators and assigns, from the feast-day of the Annunciation of the Blessed Virgin *Mary* then next ensuing the date of the said indenture, for and during and unto the full end and term of 21 years from thence next coming and following fully to be compleat and ended; Yielding and paying therefore yearly and every year during the said term of twenty-one years to the said *Anthony Townsend*, his executors, administrators and assigns, the yearly rent or sum of 20 *l.* of lawful money of *England*, at the two usual feasts or terms in the year, that is to say, the feast of *St. Michael* the Archangel and the Annunciation of the Blessed Virgin *Mary*, by even and equal portions: And the said *Thomas Lawrence* for himself, his executors, administrators and assigns, did covenant, promise and grant to and with the said *Anthony Townsend*, his executors, administrators and assigns, by the said indenture in manner and form following, that is to say, that he the said *Thomas Lawrence*, his executors, administrators and assigns, yearly and every year during the

Covenant for
rent arrear.
Pract. Reg.
345. 355.

The demise.

Exceptions.

Habendum.

Ridden tem.

Covenant to
pay the rent.

the said term, would well and truly pay or cause to be paid to the said *Anthony Townsend*, his executors, administrators and assigns, the said yearly rent of 20 *l.* in manner and form aforesaid, and at the days and times above limited for the payment thereof, as by the same indenture among other things is more fully manifest and appears: By virtue of which said demise the said *Thomas*, on the morrow of the said feast of the Annunciation of the Blessed Virgin *Mary* next after the date of the indenture aforesaid, into the premises aforesaid with the appurtenances to him as aforesaid above demise entered, and was and yet is thereof possessed: And the same *Anthony* in fact says, that although he hath well and faithfully, according to the form and effect of the said indenture, performed and kept all and singular the covenants and agreements in the indenture aforesaid above specified on the part of the said *Anthony* to be observed, performed or kept, the said *Thomas* hath not paid or caused to be paid to the said *Anthony* the sum of 10 *l.* to the same *Anthony* by the said *Thomas* due of the rent aforesaid for the said demise premises for half a year ended at the feast of the Annunciation of the Blessed Virgin *Mary* 1689; and that the said *Thomas* hath not paid or caused to be paid to the same *Anthony* the like sum of 10 *l.* to him by the said *Thomas* due of the rent aforesaid for the demise premises aforesaid for another half year ended at the feast of *St. Michael* the Archangel 1689 aforesaid, which said several sums of money the said *Thomas* ought to have paid or caused to have been paid to the same *Anthony* at the same feast-days respectively, according to the form and effect of the indenture aforesaid; and so the same *Anthony Townsend* says, that the said *Thomas Lawrence*, altho' often required, &c. hath not performed his covenant aforesaid with the same *Anthony* in this respect as aforesaid made, but hath broke it, and hath hitherto altogether denied and yet doth deny to perform it to him; whereby the same *Anthony* says that he is prejudiced, and hath damage to the value of 40 *l.* And therefore he produces the suit, &c.

The entry of the defendant.

Breach.

That the mayor, &c. of *Coventry* were seised in fee till disseised by the plaintiff who made the lease.

The defendant entered and the mayor, &c. re-entered and ousted him.

Repl. that *K. James* the Second was seised, &c. and demise to him for years, &c.

That he entered and demise to the defendant.

When, &c. And says that the said *Anthony* ought not to have or maintain his action aforesaid thereof against him, because he says, that the tenements aforesaid above supposed to be demise lie in the city of *Coventry* in the county of the city of *Coventry* aforesaid, and that long before the said *Anthony* had any thing in the tenements aforesaid, and before the demise aforesaid above supposed to be made, the mayor, bailiffs and commonalty of the city of *Coventry* aforesaid were seised of the tenements aforesaid in their demesne as of fee, until the said *Anthony* the said mayor, bailiffs and commonalty thereof unjustly and without judgment did disseise, whereby the same *Anthony* was seised of the tenements aforesaid in his demesne as of fee by disseisin; and the same *Anthony* so thereof by that disseisin being seised, demise the tenements aforesaid to the said *Thomas*; To have and to hold the tenements aforesaid to the same *Thomas* from the said feast-day of the Annunciation of the Blessed Virgin *Mary* next ensuing the date of the indenture aforesaid, for and during and unto the full end and term of 21 years aforesaid from thence next following fully to be compleat and ended; Yielding and paying therefore yearly and every year, during the said term of 21 years, to the same *Anthony Townsend* the said yearly rent or sum of 20 *l.* at the said two usual feasts or terms in the year in the declaration aforesaid specified, by even and equal portions, as by the declaration aforesaid is supposed: By virtue of which demise the same *Thomas* into the tenements aforesaid did enter, and was thereof possessed, as the said *Anthony* above against him hath declared, upon which said *Thomas Lawrence's* possession thereof the said mayor, bailiffs and commonalty of the city of *Coventry* aforesaid, before the said feast of the Annunciation of the Blessed Virgin *Mary* 1689, into the same tenements re-entered, and him the said *Thomas* from his possession thereof did put out, and from thence hitherto have kept out and yet do keep out: And this he is ready to verify, &c. (*Q. Whether a corporation can enter unless by attorney.*)

Edward Northey.

And the said *Anthony* says, that he by any thing by the said *Thomas* above in pleading alleged ought not to be precluded from his action aforesaid thereof against him had, because he says, that before the making of the demise aforesaid in the declaration aforesaid abovementioned, the Lord *James* the Second, late King of *England*, was seised of and in the tenements aforesaid by the indenture aforesaid so as aforesaid demise in his demesne as of fee in the right of his dutchy of *Cornwall*; and so being thereof seised the same Lord the late King *James* the Second afterwards, and before the making of the indenture aforesaid, to wit, on the 17th day of *May* in the second year of his reign, by his letters patent sealed with the seal of his Exchequer here in court produced, bearing date at *Westminster* the same day and year, demise to farm to the said *Anthony Townsend* the tenements aforesaid (among other things); To have and to hold the tenements aforesaid (among other things) to the said *Anthony* and his assigns from the feast of the Annunciation of the Blessed Virgin *Mary* then last past for the term of 31 years from thence next ensuing fully to be compleat and ended: By virtue of which said letters patent the same *Anthony* into the tenements aforesaid entered, and was thereof possessed; and so being thereof possessed, he the same *Anthony* on the said 20th day of *January* 1686 aforesaid in the declaration aforesaid mentioned,

at London aforesaid in the parish and ward aforesaid, demised the tenements aforesaid to the said Thomas in the manner and form as the said Anthony above in his declaration hath declared; without that, that the said mayor, bailiffs and commonalty of the city of Coventry aforesaid were seised of the tenements aforesaid in their demesne as of fee, in manner and form as the said Thomas above in pleading hath alledged: And this he is ready to verify: Wherefore he prays judgment, and his damages by reason of the breach of the covenant aforesaid, to be adjudged to him, &c.

J. Girdler.

And the said Thomas as before says, that the said mayor, bailiffs and commonalty of the city of Coventry aforesaid were seised of the tenements aforesaid in their demesne as of fee, in manner and form as the said Thomas above by pleading hath alledged: And of this he puts himself on the country: And the said Anthony likewise, &c. And hereupon the said Anthony says, that Samuel Collins and William Gibson, now sheriffs of the city of Coventry and county of the same city, are bailiffs of the city of Coventry aforesaid, and therefore parties to the matter aforesaid above between him the said Anthony and the said Thomas put in issue; and that Simon Burton, now coroner of the said city of Coventry and county of the same city, is one of the said commonalty of the city of Coventry aforesaid, and therefore likewise a party to the said matter above between the said Anthony and the said Thomas as aforesaid put in issue: And the same Anthony prays a writ of the Lord and Lady the King and Queen to be directed to two discreet and indifferent persons within the said county of the city of Coventry aforesaid residing, by the court here to be elected, to cause to come twelve free and lawful men of the neighbourhood of Wicken in the said county of the city of Coventry aforesaid, to try the issue aforesaid between the parties aforesaid above as aforesaid joined: And because the said Thomas Lawrence doth not deny the allegation aforesaid, therefore E. H. and A. L. (with the assent of the parties aforesaid by the court here elected and named) are commanded that they cause to come before the Lord and Lady the King and Queen at Westminster on day next after twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. The same day is given to the parties aforesaid there, &c.

Traverse of the seisin of the corporation.

Suggestion that both the sheriffs and coroner are parties, wherefore the venire is awarded to electors.

Note; This cause was ordered to be tried at the bar, but it was afterwards compromised.

Debt.

Debt.

Declaration
on a bond
enter'd into
to one who
was attainted
of treason,
and his goods
granted by
the King to
the Duke of
York.
Pract. Reg.
397. 407.

London, to wit.

THE most Illustrious Prince the Duke of York complains of *E. F.* Gent. otherwise called, *Ec.* in the custody of the marshal, *Ec.* in a plea that he render to him 200 *l.* of lawful money of England which he owes to him and unjustly detains, for this, to wit, that whereas the said *E.* on the 26th day of April in the year of the Lord, *Ec.* at London, to wit, in the parish of St. Mary le Bow in the ward of Cheape, by his certain writing obligatory sealed with the seal of the said *E.* and to the court of the said Lord the now King here shewn, the date whereof is the day and year abovesaid, acknowledged himself to be held and firmly bound to one *T. W.* late of *M.* in the county of *R.* Esq; in the said 200 *l.* to be paid to the same *T.* when he should be thereto required: And whereas also by a certain act in the Parliament of the Lord the now King, begun and held at Westminster in the county of Middlesex on the 25th day of April in the 12th year of his reign, and there continued until the 29th of December then next following, the said *T.* amongst others was duly and lawfully convicted and attainted of high treason, whereby the writing abovesaid, and the money by the same due, became forfeited to the same Lord the now King; and afterwards, to wit, on the third day of April in the 13th year of the reign of the said Lord the now King, the same Lord the now King by his letters patent under his great seal of England, bearing date at Westminster the same day and year last mentioned, gave and granted to the said Duke of York and his assigns for ever all the goods, debts and other chattels personal whatsoever of the said *T. W.* and others so attainted and convicted of high treason as abovesaid, wherein or of which he stood possessed in law or equity, whereby the said Duke of York became interested and intitled in and to the writing abovesaid, among other things, and all the goods, debts and chattels of the said *T.* whereby an action accrued to the same Duke to demand and have of the said *E.* the said 200 *l.* Nevertheless the said *E.* altho' often required, *Ec.* hath not paid the said 200 *l.* to the said Lord the King or to the said Duke, but hath altogether refused to pay them the same, and doth yet refuse to pay the same to the said Duke, to the damage of the said Duke 40 *l.* And therefore he produces the suit, *Ec.*

Debt on bond
by the survi-
ving executor.

Sussex, to wit.

HENRY Crawley, executor of the last will and testament of Nicholas Challoner deceased, complains of Thomas Holloway, otherwise called Thomas Holloway of the parish of Meeching, otherwise Newhaven in the county of Sussex, butcher, in the custody of the marshal, *Ec.* in a plea that he render to him 32 *l.* of lawful money of England which he unjustly detains from him, for this, to wit, that whereas the said Thomas on the 24th day of December in the 29th year of the reign of the Lord Charles the Second, now King of England, *Ec.* at Lewes in the county abovesaid, by his certain writing obligatory sealed with the seal of the said Thomas, and to the court of the said Lord the now King here shewn, the date whereof is the same day and year, acknowledged himself to be held and firmly bound to the said Nicholas in his life-time, in the said 32 *l.* to be paid to the said Nicholas in his life-time, his executors or administrators, when he should be thereunto required: Nevertheless the said Thomas, altho' often required, *Ec.* hath not paid the said 32 *l.* to the same Nicholas in his life-time, nor to the said Henry after the death of the said Nicholas, nor to Thomas Challoner now deceased, executor with the said Henry of the will of the said Nicholas, or to any of them, which said Thomas Challoner the said Henry survived, but the same to the said Nicholas in his life-time, or to the said Henry and Thomas

Thomas, or either of them, after the death of the said *Nicholas*, hath altogether denied to pay, and yet doth deny to pay the same to the said *Henry*, and unjustly detains, in delay of the faithful execution of the will of the said *Nicholas* aforesaid, and to the damage of the said *Henry* 20*l.* And therefore he produces the suit, &c. And he the said *Henry* produces here in court the letters testamentary of the said *Nicholas*, whereby it sufficiently appears to the court of the said Lord the now King here, that he the said *Henry* and the said *Thomas Challoner* now deceased, are the executors of the last will and testament of the said *Nicholas*, and have the administration thereof, &c.

Joseph and The Lord Mobun.

Midd', to wit. **B**enjamin *Joseph*, a debtor to the Lady the now Queen, comes before the Debt in the Exchequer against the heirs of *Thomas Arden* his attorney, and complains by bill against *Thomas Orby*, Esq; and *Charlotte* his wife, *James Hamilton*, Esq; Duke *Hamilton* of the kingdom of Scotland and *Elizabeth* his wife, and *John Erlington*, Gent. which said *Charlotte*, *Elizabeth* and *John* are coheirs of *Fitton* late Earl of *Macclesfield*, late brother and heir of *Charles* late Earl of *Macclesfield*, lately otherwise called the most honourable *Charles* Earl of *Macclesfield*, the same *Charlotte* being one of the sisters of the said late Earl's, the said *Elizabeth* being daughter and heir of *Elizabeth* late Lady *Gerrard* of *Bromley*, late another of the sisters of the said late Earl's, and the same *John* being son and heir of *Anne Erlington*, late also another of the sisters of the said late Earl's, and against *Charles* Lord *Mobun*, devisee of the said late Earl *Charles*, of certain lands, tenements and hereditaments, which were of the said late Earl *Charles* at the time of his death, according to the form of the statute thereof lately made and provided, jointly present here in court the same day, in a plea that they render to the said Benjamin 11000*l.* of lawful money of *England*, which they owe to him and unjustly detain, for this, to wit, that whereas the said late Earl *Charles* in his life-time on the 4th day of *March* in the year of the Lord 1695, at *Westminster* in the county of *Middlesex* aforesaid, acknowledged himself to be bound to the same Benjamin in the said 11000*l.* to be paid to the same Benjamin, when he should be thereto required; and the same Earl *Charles* well and truly to make the same payment bound himself and his heirs by the same writing: Nevertheless the said Earl *Charles* in his life-time, or the said *Charles* Lord *Mobun*, (to whom and to whose heirs the said Earl *Charles* by his last will in writing, at *Westminster* aforesaid in his life-time, after the 25th day of *March* in the year of our Lord 1692, duly made and published, bequeathed and devised certain his lands, tenements and hereditaments, of which he then and at the time of his death was seised in his demesne as of fee,) or the said Earl *Fitton*, brother and heir of the said Earl *Charles*, or the said *Thomas Orby* and *Charlotte* his wife, *James Hamilton* and *Elizabeth* his wife, and *John Erlington* after the death of the said Earl *Fitton*, altho' often required, &c. have not render'd, nor hath any of them render'd the said 11000*l.* to the same Benjamin, but have denied to render him the same; and the said *Charles* Lord *Mobun*, devisee as aforesaid, *Thomas Orby* and *Charlotte* his wife, *James Hamilton* and *Elizabeth* his wife, and *John Erlington*, do yet deny to render him the same; whereby the same Benjamin says that he is prejudiced, and hath damage to the value of 1000*l.* whereby the less, &c. And therefore he produces the suit, &c.

3 & 4 W. &
M. c. 14.
6 & 7 W. 3.
c. 14.

The Queen and Davis.

London, to wit. **E**dward *Northey*, Knt. Attorney General of the Lady the now Queen who Debt on bond to the late King. sues for the same Queen, complains of *Richard Davis*, otherwise called *Richard Davis* of the parish of *St. Edmond the King*, *London*, wine-cooper, in the custody of the marshal, &c. in a plea that he render to the said Lady the Queen 2000*l.* of lawful money of *England* which he owes to the said Lady the Queen and unjustly detains, for this, to wit, that whereas the said *Richard* on the 31st day of *July* in the year of the Lord 1701 at *London* aforesaid, to wit, in the parish of *St. Mary le Bow* in the ward of *Cheape*, by his certain writing obligatory sealed with the seal of the said *Richard*, and to the court of the said Lady the now Queen here shewn, the date whereof is the day and year aforesaid, acknowledged himself to be held and firmly bound to the Most Serene Lord *William* the Third, late King of *England* now deceased, in his life-time in the said 2000*l.* to be paid to the same Lord the late King, or his successors, when he should be thereto after required: Nevertheless the said *Richard*, altho' often required, &c. the said 2000*l.*

to the same late Lord King *William* in his life-time, or to the said Lady *Anne*, now Queen of *England*, after the death of the said late Lord the King, hath not paid, but the same to the said late Lord the King in his life-time, or to the said Lady the now Queen after the death of him the said late King, hath altogether denied to pay, and the same to the said Lady the now Queen doth yet deny to pay, to the damage of her the said Lady the now Queen 100*l.* And therefore the said Attorney General of the Lady the now Queen, for the said Lady the now Queen, produces the suit, &c.

Barrington against Archer.

Debt by a lord of a manor against an heir for a fine on the death of his ancestor. Pract. Reg. 118. The custom. The defendant's mother seised in fee. The descent. The fine set. Notice thereof. Pract. Reg. 155, 157. Action accrued.

Essex, to wit. **C**harles Barrington, Bart. Lord of the manor of *King's Hatfield*, otherwise *Hatfield Broadoake* in the county aforesaid, complains of *John Archer*, Esq; in the custody of the marshal, &c. in a plea that he render to him 20*l.* which he owes to him and unjustly detains, for this, to wit, that whereas the said Charles day of in the third year of the reign of the Lady *Anne*, now Queen of *England*, &c. and for years and more now last past continually hitherto, was seised and yet is seised in his demesne as of fee of and in the manor of *King's Hatfield*, otherwise *Hatfield Broadoake* aforesaid in the county aforesaid, which manor is of the ancient demesne of the Crown Royal of *England*, in which said manor there is and from time immemorial hath been a custom used and approved, that every person not being born within the manor aforesaid, nor being tenant of lands or tenements held of the manor aforesaid, becoming seised by hereditary descent or otherwise of any lands or tenements held of the manor aforesaid, was used and accustomed to pay a reasonable fine to the lord of the manor aforesaid for the time being, at the court baron of the lord of the manor aforesaid on such person to be set for the liberty of the manor aforesaid: And the same Charles farther says, that one *Mary Archer*, widow, mother of the said *John*, whose heir the same *John* is, in her life-time and at the time of her death was tenant of and in with the appurtenances in the manor of *King's Hatfield*, otherwise *Hatfield Broadoake* aforesaid in the county aforesaid, and held of the manor aforesaid, to wit, at *King's Hatfield*, otherwise *Hatfield Broadoake* aforesaid in the county aforesaid, and on the day of in the year at *King's Hatfield*, otherwise *Hatfield Broadoake* aforesaid in the county aforesaid died thereof seised in her demesne as of fee, whereby the tenements aforesaid with the appurtenances descended to the said *John Archer* as son and heir of the said *Mary*; and the same *John* into the tenements aforesaid with the appurtenances entred, and became thereof seised in his demesne as of fee by hereditary descent, which said *John* was not born within the manor aforesaid, nor was at the time of the death of the said *Mary* tenant of any lands or tenements held of the manor aforesaid: And afterwards, to wit, at a court baron of him the said Charles, lord of the manor aforesaid, held for the manor aforesaid at *King's Hatfield*, otherwise *Hatfield Broadoake* aforesaid in the county aforesaid, and within the manor aforesaid day of in the year above said, a fine of 20*l.* being a reasonable fine by the said *John* to the same Charles to be paid for the liberty of the manor aforesaid was set, and by reason thereof, according to the custom of the manor aforesaid, to the same Charles became due and payable, to wit, at the parish of *King's Hatfield*, otherwise *Hatfield Broadoake* aforesaid in the county aforesaid, of which said fine the same Charles then and there gave notice to the said *John*: And the same Charles afterwards, to wit, day of in the year last above said, at *King's Hatfield*, otherwise *Hatfield Broadoake* aforesaid in the county aforesaid, demanded of the said *John Archer* the said 20*l.* and the said *John* refused to pay him them, whereby an action accrued to the same Charles to demand and have of the said *John Archer* the said 20*l.* Nevertheless the said *John Archer*, altho' often required, &c. hath not yet paid the said 20*l.* to the said Charles, but hath altogether refused, and yet doth refuse to pay him the same, to the damage of the said Charles 30*l.* And therefore he produces the suit, &c.

Quennell and Diddlesfold.

Surry, to wit. **S**imon Quennell, executor of the last will and testament of Peter Quennell Debt by an
deceased, complains of William Diddlesfold, heir of John Diddlesfold executor
deceased, to wit, brother and heir of Richard Diddlesfold, son and heir of William Diddlesfold against an
deceased, brother and heir of the said John Diddlesfold late of Hascombe in the county of
Surry, yeoman deceased, otherwise called John Diddlesfold of Hascombe in the county a-
foresaid, yeoman, being in the custody of the marshal of the Marshalsea of the Lord the
King, before the King himself, in a plea that he render to him 120*l.* of lawful money
of England, which he unjustly detains from him, for this, to wit, that whereas the said
John (whose heir the same William Diddlesfold the now defendant now is) in his life
time, to wit, on the 23d day of October in the 29th year of the reign of the Lord Charles
the Second, now King of England, &c. at Hascombe in the county aforesaid, by his certain
writing obligatory sealed with the seal of the said John, and to the court of the said Lord
the now King here shewn, the date whereof is the same day and year, acknowledged
himself to be held and firmly bound to the said Peter in his life-time in the said 120*l.*
to be paid to the same Peter, his executors or administrators, when he should be thereto
after required, and well and truly to make the same payment the said John in his life-time
bound himself and his heirs by the same writing: Nevertheless the said John in his life-
time, nor the said William the brother of the said John after the death of the said John,
nor the said Richard after the death of the said William the brother of the said John,
nor the said William Diddlesfold the now defendant after the death of the said Richard, al-
tho' after required, &c. have not yet paid, nor hath any of them paid, the said 120*l.* to
the said Peter, in his life-time, nor to the said Simon after the death of the said Peter, but
to pay the same to the said Peter in his life-time, and to the said Simon after the death of
the said Peter, have altogether refused, and the said William Diddlesfold the now defendant
doth yet refuse to pay the same to the said Simon, and unjustly detains them from him in
delay of the faithful execution of the will aforesaid, and to the damage of the said Simon 50*l.*
And therefore he produces the suit, &c. And the said Simon produces here in court the letters
testamentary of the said Peter aforesaid; by which it sufficiently appears to the court of the
said Lord the now King here, that the said Simon is executor of the will of the said Peter
aforesaid, and thereof hath the administration, &c.

And now on this day, to wit, Tuesday next after the Octave of St. Hillary in the same Nothing by
term, until which day the said William Diddlesfold the now defendant had leave to imparl descent plead-
to the said bill, and then to answer, &c. before the Lord the King at Westminster comes ed.
as well the said Simon by his attorney aforesaid, as the said William Diddlesfold the now
defendant by Christopher Smith his attorney; and the same William Diddlesfold the now
defendant comes and defends the force and injury, when, &c. and says that he ought not to
be charged with the debt aforesaid as heir of the said John Diddlesfold by virtue of the
writing obligatory aforesaid; because by protesting that the said writing is not the deed
of the said John Diddlesfold, for plea the same William Diddlesfold the now defendant says,
that he hath not any lands or tenements by hereditary descent from the said John Diddles- 3. 4. W. & M.
fold in fee-simple, nor had on the said day of the exhibition of the bill aforesaid, nor ever c. 14. 5. 4.
after: And this he is ready to verify: Wherefore he prays judgment, if he as heir of the
said John Diddlesfold ought to be charged with the debt aforesaid by virtue of the writing
aforesaid, &c.

And the said Simon says, that by any thing by the said William Diddlesfold the now Repl. that
defendant above in pleading alledged he the same William Diddlesfold the now defendant, he hath assets.
as heir of the said John Diddlesfold, ought to be charged with the debt aforesaid by virtue
of the writing obligatory aforesaid, because he says that on Monday next after three weeks
of St. Michael in the 34th year of the reign of the Lord Charles the Second, now King of
England, &c. on which day the bill aforesaid in court here as aforesaid was exhibited,
the said William Diddlesfold the now defendant had divers lands and tenements by heredi-
tary descent from the said John Diddlesfold in fee simple, wherewith he might have satisfied
the said Simon the said debt, to wit, at Hascombe aforesaid in the county aforesaid: And
this he prays may be inquired of by the country: And the said William Diddlesfold the now
defendant thereof likewise, &c. Therefore let a jury thereon come before the Lord the
King at Westminster on Thursday next after the morrow of the Purification of the Blessed Vir-
gin Mary; and who neither, &c. to recognise, &c. because as well, &c. The same day
is given to the parties aforesaid there, &c.

Vymer against Holborowe.

Debt on 2 & Gloucester, to wit. **J**OHN Vymer, farmer of the rectory of *Marshfield* in the county afore-
 3 E. 6. c. 13.
 for not setting in a plea that he render to him 6*l.* of lawful money of *England* which he owes him and
 out tithes.
 said, complains of *Samuel Holborowe* in the custody of the marshal, &c.
 unjustly detains, for this, to wit, that whereas the said *John* on the 25th day of *March* in the
 2d year of the reign of the Lord *James* the Second, now King of *England*, &c. and from
 thence continually hitherto was and yet is farmer of the rectory of *Marshfield* with the ap-
 purtenances in the county aforesaid, and of all and singular the tithes to that rectory any
 way belonging and appertaining, within the parish of *Marshfield* aforesaid in the county a-
 foresaid and the bounds, limits and tithable places of that parish yearly arising, growing,
 renewing and happening; and the said *Samuel* on the said 25th day of *March* in the second
 year above said, and from thence continually after until the exhibition of this bill, was and
 now is occupier and possessor of a close of meadow called *Foxwell's Wood*, containing by
 estimation 13 acres, and two acres of plough land in the *Northfield* of *Marshfield* aforesaid,
 and within the parish of *Marshfield* aforesaid in the county aforesaid and the bounds, li-
 mits and tithable places of that parish: The tithes of the grain and hay of and from which
 said close of meadow and two acres of land yearly growing, arising and renewing, for 40
 years next before the making of a certain act of Parliament made in the Parliament of the
 Lord *Edward* the Sixth, late King of *England*, held at *Westminster* in the county of *Middlesex*
 in the second year of his reign, for the true payment of tithes in their proper kind and
 specie made and provided, of right were due and payable to the rector of the rectory a-
 foresaid, or his farmer or deputy of that rectory for the time being; and the said *Samuel* so
 as aforesaid for all the time aforesaid being occupier and possessor of the said close of
 meadow and the two acres of land, and the said *John* being so as aforesaid farmer of the
 rectory aforesaid, the said *Samuel* afterwards, to wit, on the said twenty-fifth day of *March*
 in the second year above said plowed the said two acres of land and sowed them with
 wheat; and afterwards, to wit, on the sixth day of *September* in the second year of
 the reign of the said Lord the now King above said, all the grass in and upon the said
 close of meadow then growing mowed and made into hay, and all the wheat in and
 upon the said two acres of land then growing did cut down, the tithes of which said hay
 and wheat of and from the said close of meadow and the said two acres of land as afore-
 said growing and arising did of right belong to the same *John* as farmer of the rectory a-
 foresaid, and to him of right ought to have been paid and render'd: Nevertheless the said
Samuel being a subject of the said Lord the now King of this realm of *England* not regard-
 ing the statute, nor in any wise fearing the penalties therein contained, did not divide, set
 out, yield and pay the tenth part of the wheat and hay aforesaid, or any parcel thereof, for
 the tithes of the same, nor did any way compound or agree with the same *John*, being so as
 aforesaid farmer of the rectory aforesaid, for the tithes of the same, or any parcel thereof;
 but the said *Samuel* afterwards, to wit, on the 10th day of *October* in the second year above-
 said, all the grain and hay in the same year so as aforesaid upon the close of meadow afore-
 said and the said two acres of land growing, arising and mowed, without any setting out
 of the tenth part of the same, and without any composition or agreement for the tithes
 of the same with the said *John* had or made, from the said places where the said hay and
 wheat did grow, the tithes whereof were then worth 40*s.* of lawful money of *England*, did
 then take and carry away; whereby an action accrued to the said *John* to demand and have
 of the said *Simon* 6*l.* being the treble value of the tithes of the wheat and hay aforesaid
 by him the said *Simon* against the form of the statute aforesaid as aforesaid taken and carried
 away: Nevertheless the said *Simon*, altho' often required, &c. the said 6*l.* to the same *John*
 hath not yet paid, but them, &c.

The defen-
dant occupier.

And sowed
and mowed.

Did not set
out the tithes.

Goddard against Fowle.

Debt for rent *London*, to wit. **T**HOMAS Goddard, merchant, complains of *Robert Fowle*, goldsmith, exe-
 on a lease a-
 gainst an exe-
 cutor.
 cutor of the last will and testament of *Thomas Fowle*, Knt. lately de-
 ceased, being in the custody of the marshal of the *Marshalsey* of the Lord and Lady *Wil-*
liam and *Mary* now King and Queen of *England*, &c. before the King and Queen them-
 selves, in a plea that he render to him 123*l.* 15*s.* which he unjustly detains from
 him, for this, to wit, that whereas by a certain indenture made the thirteenth day of
March in the year of the Lord 1688 at *London* aforesaid, to wit, in the parish of *St.*
Mary le Bow in the ward of *Cheape*, between the same *Thomas Goddard*, by the
 name of *Thomas Goddard* of *London*, merchant, of the one part, and the said *Thomas*
Fowle, by the name of *Thomas Fowle* of *London*, Knt. of the other part, which other
 part sealed with the seal of the said *Thomas Fowle* in his life-time, and as his deed
 delivered

delivered, the said *Thomas Goddard* produces here in court, the date whereof is the same day and year, reciting that whereas by a certain indenture bearing date the 10th day of *Retial*. January in the year of our Lord 1671, and in the 23d year of the reign of the Lord *Charles the Second*, late King of *England*, made or mentioned to be made between the said *Thomas Goddard* and *Elizabeth* his wife, *Francis Sholtrofs* of *Diggleswell* in the county of *Hertford*, Esq; and *Henry Sholtrofs*, citizen and merchant taylor of *London*, of the one part, and the said *Thomas Fowle* by the name of *Thomas Fowle* of *London*, goldsmith, of Agreement to the other part, it was agreed that the said *Thomas Goddard* and *Elizabeth* his wife, *Francis Sholtrofs* and *Henry Sholtrofs*, before the end of *Hillary* term then next ensuing the date of the said indenture, should levy and acknowledge before the justices of the Common Pleas of the said late King at *Westminster*, to the said *Thomas Fowle* and his heirs, a Fine sur cognizance de droit come ceo, &c. with proclamations, of all that messuage or tenement situate in *Fleet-street* between the *Inner-Temple gate* and the *Middle-Temple gate* in the parish of *St. Dunstan* in the *West* in the city of *London*, then in the occupation of *Richard Clarke*, or his assigns or under-tenants, and of all that messuage or tenement situate in *Fleet-street* aforesaid in the city of *London*, next adjoining to the said messuage, and then or late in the tenure or occupation of *John Grove*, or his assignee or assignees, together with all and singular their appurtenances to the same belonging or in any wife appertaining, and of all other messuages and tenements of the said *Thomas* and *Elizabeth Goddard*, or either of them, situate and being in the parish of *St. Dunstan* in the city of *London*, by such name or names, addition or description, to ascertain the same, as should be thought fit; and it was by the said indenture declared that the said fine, so or in any other manner to be had or levied, should be and enure to the use of the said *Thomas Goddard* for his life, and after his decease to the use of the said *Elizabeth*, the wife of the said *Thomas Goddard* for her life, and after the death of the said *Thomas Goddard* and *Elizabeth* his wife, then to several other uses in the said indenture mentioned and declared, under and with the proviso following: Provided always, and it was agreed by and between the parties to the said indenture, and by them declared and agreed to be their intent and meaning, that it should be lawful to and for the said *Thomas Goddard* at any time or times during his natural life, and for the said *Elizabeth* after the decease of the said *Thomas Goddard*, to make or grant any lease or leases of the premises, or any parcel thereof by indenture, for any term or terms of years, either in possession or in reversion, so that there should be thereon reserved and payable for such of the said messuages as should be so demised, during such whole terms respectively as should be so granted or made, so much yearly rent respectively as such respective messuage or tenement had been demised or let for by the greater part of ten years then last past, and so that the term of years in any new lease of the premises, and of the years then to come of all or any term or terms of years of the same, before such new lease in being, should not exceed in the whole 21 years, as by the said recited indenture, and fine which was accordingly levied of the said messuages and premises, relation being thereunto had, more at large appears: And whereas also the said *Thomas Fowle* then had a lease of the said first mentioned messuage at the yearly rent of 40*l.* which said lease would be expired on the 2d day of *May* which would be in the year of our Lord God 1691, it was witnessed that for and in consideration of the surrender of the said indenture, and in pursuance and by virtue of the said recited proviso and the power and authority thereby to the said *Thomas Goddard* reserved, and in consideration of the sum of 500*l.* of lawful money of *England* to the said *Thomas Goddard* in hand paid at or before the sealing of the said indenture by the said *Thomas Fowle*, for or in the name of a fine or income, the receipt whereof he the said *Thomas Goddard* by the said indenture did acknowledge, and thereof did acquit and discharge him the said *Thomas Fowle*, his executors, administrators and assigns by the said indenture, 150*l.* part of which said 500*l.* the said *Thomas Goddard* had laid out in building and repairing of the said first messuage, then in the tenure or occupation of the said *Thomas Fowle*, and for the advance and increase of the rent thereof, and in consideration of the rent, covenants, provisos and agreements in the said indenture after reserved and mentioned on the part and behalf of the said *Thomas Fowle*, his executors, administrators and assigns to be paid, done and performed, the said *Thomas Goddard* had demised, granted, and to farm let, and by the said indenture did demise, grant, and to farm let, to the said *Thomas Fowle*, his executors, administrators and assigns, all that messu-

age or tenement with the shops, cellars, follars, yards, chambers, rooms and garrets thereunto belonging, then in the tenure or occupation of the said *Thomas Fowle*, or his under-tenants or assigns, situate and being in *Fleet-street* aforesaid between the *Inner-Temple gate* and the *Middle-Temple gate* in the said parish of *St. Dunstan* in the *West* in the city of *London* aforesaid, and all lights, easements, profits, watercourses, commodities and appurtenances whatsoever to the said demised messuage and premises then belonging, except and always reserved, and by the said indenture it was declared and agreed, that all drains, gutters, pipes, currents, water-courses and passages of and for water, and privileges of eaves-droppings, and all easements, lights, windows, and other privileges and accommodations on, by and thro' the said messuage by the said indenture demised, or any part thereof, which then were made, used, accustomed or belonging to the said messuage or tenement belonging to the said *Thomas Goddard*, late in the occupation of the said *John Grove*, and then in the occupation of *William Osborne*, to the said demised premises adjoining, should remain, continue, and be held and enjoyed therewith during the term by the indenture within granted in such sort as the same were then used, held and enjoyed; To have and to hold the said demised messuage or tenement and premises with the appurtenances, and every part and parcel thereof (except as before excepted) to the said *Thomas Fowle*, his executors, administrators and assigns, from the second day of *November* then last past before the date of the said indenture for and during and to the full end and term of 20 years and a half of a year thence next following fully to be compleat and ended; Yielding and paying therefore to the said *Thomas Goddard* and his assigns yearly and every year, and from time to time during the term of 20 years and a half of a year by the said indenture granted, if the said *Thomas Goddard* should so long live, and after his decease to such person or persons to whom the next use or estate of and in the said messuage or tenement and premises, according to the limitation of the respective uses and estates in and by the said recited indenture limited should belong, the yearly rent or sum of 55*l.* of lawful money of *England* at four several days of payment in the year, that is to say, the second day of *February*, the second day of *May*, the second day of *August*, and the second day of *November*, by even and equal portions, as by the said indenture here in court produced, relation being thereunto had, (among other things) is more fully manifest and appears: By virtue of which said demise the said *Thomas Fowle* in his life-time into the messuage aforesaid with the appurtenances entred and was thereof possessed, and the messuage aforesaid with the appurtenances from the said 2d day of *November* in the year of the Lord 1688 until the second day of *November* 1692, and after, held and occupied; and the said *Thomas Fowle*, Knt. on the 11th day of *November* last aforesaid died, to wit, at *London* aforesaid in the parish and ward aforesaid, and 110*l.* of the rent aforesaid, parcel of the said 123*l.* 15*s.* for two years ended on the said second day of *November* in the year of the Lord 1692 were then in arrear and unsatisfied, and yet remain unpaid to the said *Thomas Goddard*; whereby an action accrued to the said *Thomas Goddard* to demand and have of the said *Thomas Fowle* in his life-time, and of the said *Robert* after the death of the said *Thomas Fowle*, the said 110*l.* parcel of the said 123*l.* 15*s.* as also 13*l.* 15*s.* residue of the said 123*l.* 15*s.* of the rent aforesaid, which after the death of the said *Thomas Fowle*, Knt. for a quarter of a year ended on the second day of *February* in the year of the Lord 1692 aforesaid were in arrear and not satisfied to the said *Thomas Goddard*, and yet remain unpaid, whereby an action accrued to the same *Thomas Goddard* to demand and have of the said *Robert Fowle* the said 13*l.* 15*s.* (residue of the said 123*l.* 15*s.*) Nevertheless the said *Thomas Fowle* in his life-time, and the said *Robert* after the death of the said *Thomas Fowle*, altho' often required, &c. the said 110*l.* parcel of the said 123*l.* 15*s.* or part thereof, have not paid, nor hath either of them paid to the same *Thomas Goddard*, nor hath the said *Robert* paid to the said *Thomas Goddard* the said 13*l.* 15*s.* or any part thereof, but the said *Robert* hath denied to pay to the same *Thomas Goddard* the said 123*l.* 15*s.* and doth yet deny to pay him, and unjustly detains the same, to the damage of the said *Thomas Goddard* 60*l.* And therefore he produces the suit, &c.

Habund.

Residua to him and to such persons, &c.

Entry of the lessee.

Rent due in the testator's time.

Rent due in the executor's time.

Fawcett against Chapman.

Richard Fawcett, who as well, &c. complains of William Chapman in the custody of the marshal, &c. in a plea that he render to the Lord the King and to the same Richard, who as well, &c. 70*l.* of lawful money of England, which to the said Lord the King and to the same Richard, who as well, &c. he owes and unjustly detains, for this, that the said William on the first day of April in the 4th year of the reign of the said Lord the now King, and from thence continually after for the space of one whole year then next following, had been and continued a spiritual person and beneficed, to wit, the said William for all that time was and yet is vicar of the vicaridge of the parochial church of M. and beneficed in the same, and that the same William by the space of seven whole months concurring together in the year aforesaid, to be computed from the 1st day of May in the same year, was not personally resident and abiding in, at and upon his said benefice, nor in, at or upon any other his benefice, but the same William absented himself wilfully by the said space of seven months from his said benefice, nor was resident upon his benefice aforesaid, nor in, at or upon any other benefice, against the form of the statute in such case made and provided; whereby an action accrued to the same Richard, who as well, &c. to demand and have of the said William 70*l.* to wit, 10*l.* for every month by the said William against the form of the said statute as aforesaid offended: Nevertheless the said William, altho' often required, &c. the said 70*l.* to the said Lord the King or to the same Richard, who as well, &c. hath not yet paid, but hath altogether denied and yet doth deny to pay them the same; whereby the same Richard, who as well, &c. says that he is prejudiced, and hath damage to the value of 20*l.* And therefore as well for the said Lord the King as for himself he produces the suit, &c.

Debt on the
31 H. 8. c. 13.
§. 26. of non-
residence.

The Queen Dowager against Briggs.

Midd^x, to wit. **T**HE most Excellent Lady Catharine Queen Dowager of England, &c. complains of William Briggs, Esq; marshal of the Marshalsea of the now Lord and Lady the King and Queen before the King and Queen themselves, being present here in court in his proper person, in a plea that he render to her 1006*l.* 10*s.* of lawful money of England, which he owes to her and unjustly detains, for this, that whereas the said Lady Catharine Queen Dowager of England, &c. otherwise, to wit, in Trinity term in the 5th year of the reign of the Lord and Lady the now King and Queen, in the court of the said King and Queen before the King and Queen themselves, at Westminster in the county of Middlesex then and yet being, did recover by the judgment of the said court against one Francis Hynde the younger 1006*l.* 10*s.* which to the same Lady Catharine in the same court here were adjudged for her damages, which she had sustained as well by reason of the non-performance of a certain promise and assumption to the same Lady Catharine by the said Francis lately made, as for her costs and charges by the said Lady Catharine about her suit in that behalf expended, whereof the same Francis is convicted, as by the record and process thereof in the court of the Lord and Lady the King and Queen before the King and Queen themselves remaining is more fully manifest and appears: And afterwards, to wit, on Saturday next after fifteen days of the Holy Trinity in the said Trinity term in the 5th year of the reign of the said Lord and Lady William and Mary now King and Queen of England, &c. aforesaid, before the said Lord and Lady the King and Queen at Westminster came the said Lady Catharine Queen Dowager of England in her proper person: And the same Francis Hynde being then present in the same court, at the petition of the said Lady Catharine Queen Dowager of England, by the court aforesaid was committed to the custody of the said William Briggs, being then and yet marshal of the Marshalsea of the said court of the Lord and Lady the King and Queen, before the King and Queen themselves, in execution for the damages aforesaid at the suit of the said Lady Catharine Queen Dowager of England, there to remain in execution until he should fully satisfy the damages to the said Lady Catharine Queen Dowager of England, as by the record thereof in the court of the said Lord and Lady the King and Queen before the Lord and Lady the King and Queen themselves at Westminster aforesaid remaining more fully is manifest and appears: By virtue of which commitment the said William Briggs, being then and yet marshal of the Marshalsea aforesaid, the said Francis Hynde into his custody in execution for the damages aforesaid then and there took, had and detained: Nevertheless the said William Briggs, being then and yet marshal of the Marshalsea of the Lord and Lady the King and Queen before the King and Queen themselves, afterwards, to wit, on the tenth day of August in the sixth year of the reign of the said Lord and Lady the now King and Queen, &c. at Westminster in the county of Middlesex aforesaid, the said Francis Hynde out of the custody of him the said William Briggs and from the execution aforesaid without the licence and against the will of the said Lady Catharine Queen Dowager, (the same Lady Catharine Queen Dowager then or ever after of the damages aforesaid

Debt against
the marshal
for an escape.

The recovery.

The commit-
ment in exe-
cution.

or

The escape. or of any part thereof not being satisfied,) at large where he would permitted freely and voluntarily to go and escape; whereby an action accrued to the same Lady *Catharine* Queen Dowager to demand and have of the said *William Briggs* the said 100*l.* 10*s.* Nevertheless the said *William Briggs*, altho' often required, &c. the said 100*l.* 10*s.* to the said Lady *Catharine* Queen Dowager hath not paid; but hath hitherto altogether denied and yet doth deny to pay her the same, to the damage of her the said Lady *Catharine* Queen Dowager 40*l.* And therefore she produces the suit, &c.

Plea, that the prisoner made a tortious escape. And the said *William Briggs* in his proper person comes and defends the force and injury when, &c. and says, that the said Lady *Catharine* Queen Dowager of *England* ought not to have or maintain her action aforesaid thereof against him, because he says, that after the commitment of the said *Francis Hynde* to the custody of the said *William Briggs* in execution for the damages aforesaid in form aforesaid, and at the time of the escape aforesaid above supposed be made, to wit, on the said 10th day of *August* in the 6th year of the reign of the Lord and Lady the now King and Queen of *England*, &c. aforesaid, the said *Francis* being in execution for the damages aforesaid under the custody of the said *William Briggs* in the prison of the Lord and Lady the King and Queen, situate in the parish of *St. George Southwark* in the county of *Surry*, he the said *Francis* the prison aforesaid with force and arms, &c. broke, and out of prison against the will of him the said *William* then and there escaped, and ran to places to the said *William* unknown: And the said *William* farther says in fact, that he the said *William* expeditiously, diligently and recently after the said escape as aforesaid made, at *Southwark* aforesaid in the county aforesaid, pursued to retake the said *Francis*, and the pursuit aforesaid from thence from place to place and from county to county made and continued until the said *William* afterwards, and before the exhibition of this bill, to wit, on the 21st day of *September* in the 6th year aforesaid the said *Francis* in the pursuit aforesaid, at *Westminster* aforesaid in the county aforesaid, took and in prison put in execution for the damages aforesaid at the suit of the said Lady the Queen Dowager of *England*, &c. and yet there detains him; and the said *Francis* in the prison aforesaid being, under the custody of the said *William* in execution for the damages aforesaid, from thence hitherto hath so remained, and yet doth so remain; which said escape of the said *Francis* out of the prison aforesaid (as is aforesaid) is the same escape of which the said Lady the Queen Dowager above against him complains: And this he is ready to verify: Wherefore he prays judgment if the said Lady the Queen Dowager of *England* ought to have or maintain her action thereof aforesaid against him, &c.

Edward Northey.

Repl. that the defendant voluntarily permitted him to escape. And the said Lady *Catharine* Queen Dowager of *England* says, that she by any thing by the said *William Briggs* above in bar by pleading alledged ought not to be precluded from her action aforesaid thereof against him the said *William* had, because she says, that after the commitment aforesaid of the said *Francis Hynde* to the custody of the said *William Briggs* in execution for the damages aforesaid, the said *William Briggs* of his own wrong against the will of the said Lady *Catharine* Queen Dowager of *England*, (the same Lady *Catharine* Queen Dowager not being satisfied for the damages aforesaid,) permitted the said *Francis Hynde* to go and escape at large, as the said Lady *Catharine* Queen Dowager of *England* above hath declared; without that, that the said *Francis Hynde* broke the prison aforesaid, and escaped out of the prison aforesaid, against the will of the said *William*, as the said *William* above in pleading hath alledged: And this she is ready to verify: Wherefore she prays judgment and her debt aforesaid, together with her damages by reason of the detention of that debt, to be adjudged to her, &c.

Creswell Levinz.

Demurrer to the replication. And the said *William* says, that the plea aforesaid by the said Lady *Catharine* Queen Dowager of *England* in manner and form above in replying pleaded, and the matter in the same contained, are not sufficient in law to maintain her action aforesaid thereof against him the said *William* had; and that he to the plea aforesaid in manner and form aforesaid pleaded hath no necessity, nor is by the law of the land obliged in any manner to answer: And this he is ready to verify: Wherefore for want of a sufficient replication in this behalf, the same *William* as before prays judgment, and that the said Lady *Catharine* Queen Dowager of *England* may be precluded from her action aforesaid thereof against him had, &c.

Edward Northey.

And the said Lady *Catharine* Queen Dowager of *England* says, that the plea aforesaid by her the said Lady *Catharine* Queen Dowager of *England* in manner and form aforesaid above by replying pleaded, and the matter in the same contained, are good and sufficient in law to maintain the action of her the said Lady *Catharine* Queen Dowager of *England* aforesaid thereof against the said *William* had: Which said plea, and the matter in the same contained, she the same Lady *Catharine* Queen Dowager of *England* is ready to verify and prove, as the court, &c. And because the said *William* doth not answer to that replication, nor hitherto any way deny it, she the same Lady *Catharine* Queen Dowager of *England* (as before) prays judgment and her debt aforesaid, together with her damages by reason of the detention of that debt, to be adjudged to her, &c. But because, &c.

Farrington and Lentball.

Surry, to wit. **J**OHN *Farrington*, Gent. complains of *William Lentball*, Esq; marshal of the *Marshalsea* of the court of the Lord and Lady the now King and Queen before the King and Queen themselves, present here in court in his proper person, in a plea that he render to him 100*l.* of lawful money of *England* which he owes him and unjustly detains, for this, to wit, that whereas after the first day of *July* in the year of the Lord 1679, he the same *John Farrington* in the vacation-time and out of term, to wit, on the 20th day of *March* in the second year of the reign of the Lord and Lady *William* and *Mary* now King and Queen of *England*, at the parish of *St. George* in *Southwark* in the county of *Surry*, was taken and detained in prison by the said *William Lentball* without any warrant or commitment for treason or felony in the same expressed: And whereas afterwards, to wit, on the 29th day of *March* in the second year of the reign of the said Lord and Lady the King and Queen aforesaid, at the parish aforesaid in the county aforesaid, the same *John Farrington* demanded of the said *William Lentball* a true copy of the warrant of commitment and detainer of him the said *John Farrington* in the prison aforesaid by him the said *William Lentball*: Nevertheless the said *William Lentball*, although often required, within the space of six hours after the said demand did not deliver to him a true copy of the warrant of commitment and detainer of him the said *John Farrington* in the custody of the said *William Lentball*, but did wholly neglect and omit to deliver it to him, against the form and effect of the statute in such case lately made and provided; whereby and by force of the statute the said *William Lentball* forfeited the sum of 100*l.* whereby by virtue of the statute aforesaid an action accrued to the said *John Farrington*, being the party grieved, to demand and have of the said *William Lentball* the said 100*l.* Nevertheless the said *William*, altho' often required, &c. hath not paid the said *John* the said 100*l.* or any penny thereof, but hath hitherto altogether denied and yet doth deny to pay him the same, to the damage of the said *John* 10*l.* And therefore he produces the suit, &c.

The company of Stationers and Hunt.

London, to wit. **T**HE Master and keepers or wardens and commonalty of the mystery or art of stationers of the city of *London* complain of *John Hunt* in the custody of the marshal, &c. in a plea that he render to them 40*l.* of lawful money of *England*, which he owes to them and unjustly detains, for this, to wit, that whereas the Lord and Lady *Philip* and *Mary* late King and Queen of *England* by their letters patent sealed under their great seal of *England*, bearing date at *Westminster* fourth day of *May* in the third and fourth year of their reign, of their special grace, certain knowledge and mere motion, did will, give and grant for themselves and the heirs and successors of the said Queen to their then beloved and faithful liege subjects *Thomas Dockray*, &c. freemen of the mystery or art of stationers of their city of *London* and the suburbs of the same, that they from thenceforth should be in deed, fact and name a perpetual body and company incorporated of a Master and two keepers, or wardens and commonalty of the same mystery or art of stationers of the city aforesaid, and that they should have a perpetual succession: And farther the same Lord and Lady the King and Queen of their special grace, certain knowledge and meer motion, by their same letters patent ordered, created, erected, made and constituted the said *Thomas Dockray* Master of the same mystery or art of stationers of the city aforesaid during one year then next ensuing, and the said *Thomas Carwood* and *Henry Cook*, keepers or wardens of the same mystery or art of stationers of the city aforesaid for one year then next following, and the said *William Bonham* and *Richard Way*, &c. the commonalty of the same mystery or art of stationers of the city aforesaid, by the letters patent aforesaid made, created

Power to
make by-
laws.

The by-law
made on
which the
action is
brought.

The confir-
mation of it.

19 H. 7. c. 7.

and constituted: And farther the same Lord and Lady the King and Queen ordered, created, erected, made and constituted by their same letters patent the said Master, keepers and commonalty, in fact and in name a perpetual body of itself and a perpetual company, incorporated of a Master and two keepers or wardens and commonalty of the same mystery or art of stationers of the city of *London* aforesaid, and the said Master, keepers or wardens and commonalty incorporated and a body corporate by the name of Master and keepers or wardens and commonalty of the mystery or art of stationers of the city of *London* for ever to endure, really and fully willed, granted, created, erected, ordained, made, declared and constituted by the said letters patent: And that the said Master and keepers or wardens and commonalty from thenceforth should have a perpetual succession; and that the said Master and keepers or wardens and commonalty and their successors should for ever be named and called by the name of the Master and keepers or wardens and commonalty of the mystery or art of stationers of the city of *London*, and by that name should and might plead and be impleaded, answer and be answered in all and singular matters, suits and plaints, actions, demands and causes, before any judges and justices whatever, and in any courts and places whatever, and should have a common seal to serve and be made use of in their affairs and business, and for sealing all and singular their deeds and writings in any manner touching or concerning their affairs and business; and that the said Master and keepers or wardens and commonalty and their successors might from time to time make, ordain and establish, for the good and wholesome regimen and government of the freemen of the said art or mystery and the commonalty aforesaid, orders, provisions and statutes as often as they should think fit and convenient, so as those orders, provisions and statutes should not be in any wise repugnant or contrary to the laws or statutes of this their realm, or to the prejudice of the republick of their same realm; and that they and their successors for ever should and might make lawful and honest assemblies of themselves to make such statutes and orders, and transact other affairs for the benefit of the said mystery or art of stationers and commonalty of the same, and for other lawful causes in form aforesaid, as often as they should think proper, lawfully and without any molestation or disturbance of the said Lord and Lady the King and Queen, or of the heirs or successors of the said Lady the Queen or of any other, as by the letters patent aforesaid inrolled of record in the court of Chancery of the Lord and Lady the now King and Queen at *Westminster*, the exemplification of which said inrolment under the great seal of the Lord *Charles* the Second, late King of *England*, &c. bearing date at *Westminster* 23d day of *October* in the 36th year of his reign, the same Master and keepers or wardens and commonalty of the mystery or art of stationers of the city of *London* here in court produce, more fully is manifest and appears: And the same Master and keepers or wardens and commonalty of the mystery or art of stationers of the city of *London* in fact say, that after the making of the letters patent aforesaid, and before the exhibition of this bill, to wit, on the 14th day of *May* 1694, at *London* aforesaid in the parish of *St. Martin Ludgate* in the ward of *Farringdon Within*, they the said Master and keepers or wardens and commonalty of the mystery or art of stationers of the city of *London*, being then and there assembled for the good government of the said freemen of the art or mystery aforesaid, and of the commonalty aforesaid and their successors, did (among other things) make and ordain a certain ordinance not repugnant or contrary to the laws of this kingdom of *England*, nor in any way tending to the prejudice of the republick of *England*, to wit, That the Master, wardens and assistants of the said company, or the major part of them, in a court of assistants to be held according to the usage of the same company when and as often as it should seem to them expedient, should elect and admit such member and members of the said company into the livery or cloathing of the said company as they should think fit, and that the person so elected, upon his admission into the livery or cloathing, should pay to the said Master and keepers or wardens and commonalty of the mystery or art of stationers of the city of *London* the usual sum of 20*l.* for such his or their admission thereto; and if any such person so elected into the livery or cloathing as aforesaid, on notice thereof, should not accept thereof, having no reasonable cause to refuse it, then he should pay to the Master and keepers or wardens and commonalty of the mystery or art of stationers of the city of *London* for such his refusal the sum of 40*l.* of lawful money of *England*; which said order so as aforesaid made afterwards, to wit, on the 31st day of *May* 1694, at *London* aforesaid in the parish and ward aforesaid, at the request of the said Master and keepers or wardens and commonalty of the mystery or art of stationers of the city of *London*, and according to the tenor of a certain act of parliament in such case made and provided, by the right honourable *John Sommers*, Knt. Lord keeper of the great seal of *England*, *John Holt*, Knt. Lord chief justice of the said Lord the King and the then Lady the Queen, assigned to hold pleas in the court of the said Lord the King, and the then Lady the

the Queen before the said Lord the King and the then Lady the Queen themselves, and *George Treby*, Knt. Lord Chief Justice of the said Lord the King and the then Lady the Queen of the Bench at *Westminster*, was seen, read and examined, and by them approved and confirmed: And the same Master and keepers or wardens and commonalty of the mystery or art of stationers of the city of *London* in fact say, that the said *John* after the making of the order aforesaid, and before the exhibition of this bill, to wit, on the first day of *May* in the year of the Lord 1695, was and from thence continually afterwards hitherto hath been and yet is a freeman and a member of the said company of Master and keepers or wardens and commonalty of the mystery or art of stationers of the city of *London*, to wit, at *London* aforesaid in the parish and ward aforesaid; and that after the first day of *May* in the year of the Lord last aforesaid, and before the exhibition of this bill, to wit, at a court of assistants of them the said Master and keepers or wardens and commonalty of the mystery or art of stationers of the city of *London*, held according to the usage of the said company at *Stationers-hall* in the parish and ward aforesaid, on *Monday* the fifth day of *August* in the year of the Lord 1695, by *John* then Master, *William Rawlins* and *Samuel Lowndes* then wardens, and *Roger Norton*, *Edward Bruester*, &c. then assistants of the said company, being then present and assembled, and being then the major part of the Master, wardens and assistants of the company aforesaid, he the said *John Hunt*, then being a freeman and a member of the company aforesaid, by the said Master, wardens and assistants so as aforesaid in the court of assistants aforesaid assembled, then and there was elected into the livery of the company of them the said Master and keepers or wardens and commonalty of the mystery or art of stationers of the city of *London*; and altho' he the said *John* afterwards, to wit, on the 5th day of *October* in the year of the Lord last aforesaid, at *London* aforesaid in the parish and ward aforesaid, had notice as well of the order aforesaid as of the election aforesaid, and was required by the said Master and keepers or wardens and commonalty of the mystery or art of stationers of the city of *London* to accept the livery aforesaid: Nevertheless the said *John* then and there altogether refused to accept it, and the livery aforesaid then or at any other time hath not accepted, the said *John* not having any reasonable cause to refuse the livery aforesaid, against the form and effect of the order aforesaid; whereby an action accrued to the same Master and keepers or wardens and commonalty of the mystery or art of stationers of the city of *London*, to demand and have of the said *John Hunt* the said 40*l.* Nevertheless the said *John Hunt*, altho' often required, &c. the said 40*l.* to the same Master and keepers or wardens and commonalty of the mystery or art of stationers of the city of *London* hath not yet paid, but hath altogether denied, and yet doth deny to pay them the same, to the damage of them the said Master and keepers or wardens and commonalty of the mystery or art of stationers of the city of *London* 50*l.* And therefore they produce the suit, &c.

The defendant a freeman.

Elected into the livery.

But refused.

Tindall and Wood.

Hill. 7 W. 3.

Midd., to wit. **M**ARY Wood late of *London*, widow, executrix of the last will and testament of *Edward Wood* of the parish of *St. Giles Cripplegate* in the county of *Middlesex*, grafter, was summoned to answer *Henry Tindall* in a plea that she render to him 36*l.* 15*s.* which she owes him and unjustly detains, &c. And whereon the same *Henry* by *William Millman* his attorney says, that whereas by certain articles of agreement made at the said parish of *St. Giles Cripplegate* on the 23d day of *October* in the year of the Lord 1689, between him the said *Henry Tindall*, by the name of *Henry Tindall*, citizen and blacksmith of *London*, of the one part, and the said *Edward*, by the name of *Edward Wood* of the parish of *St. Giles Cripplegate* in the county of *Middlesex*, grafter, of the other part, which other part sealed with the seal of the said *Edward* the same *Henry* produces here in court, the date whereof is the same day and year, the same *Henry* had demised, granted, set and to farm let, to the said *Edward* all those fix acres of meadow land more or less lying and being in a common field called the *Pesthouse field*, and in the field behind a certain house called the *Half-way house*, and in the field commonly called the *Conduit field*, in the several parishes of *St. Giles Cripplegate* aforesaid and of *St. Leonard Shoreditch* in the said county of *Middlesex*; To have and to hold to the said *Edward*, his executors, administrators and assigns, from the feast-day of the Nativity of our Blessed Lord and Saviour then next ensuing for the term of seven years from thence next following and fully to be compleat and ended; Yielding and paying

Debt against an executrix for rent due in her own time.

It should be in the *Debit* only. Upon articles.

The demise.

Habund.

Reddend.

paying therefore yearly the sum of 3 *l.* 10 *s.* for every acre of the said land, being in the whole 21 *l.* by even and equal portions quarterly at the feast of the Annunciation of the Blessed Virgin Mary, the feast of the Nativity of St. John the Baptist, the feast of St. Michael the Archangel, and the feast of the Nativity of our Lord, as by the same articles (among other things) is more fully manifest and appears: By virtue of which demise the same Edward into the tenements and premises above demised with the appurtenances entred, and was thereof possessed; and so being thereof possessed the same Edward afterwards, to wit, on the first day of March in the sixth year of the reign of the Lord William now King and the Lady Mary late Queen of England, &c. at the said parish of St. Giles Cripplegate made his last will and testament in writing, and constituted and ordained the said Mary executrix thereof, and afterwards there died so thereof possessed, after whose death the said Mary did there take upon herself the burden of the execution of the will aforesaid, and afterwards, to wit, the same day and year into the tenements and premises aforesaid above demised and granted entred, and was thereof possessed by reason of the execution of the will aforesaid, and 36 *l.* 5 *s.* of the rent aforesaid for one year and three quarters of a year at the feast of St. Michael the Archangel in the 7th year of the reign of the Lord the now King were in arrear and are yet unpaid; whereby an action accrued to the same Henry to demand and have of the said Mary the said 36 *l.* 5 *s.* Nevertheless the said Mary, altho' often required, &c. the said 36 *l.* 5 *s.* to the same Henry hath not yet paid, but hath hitherto denied, and yet doth deny to pay her the same; whereby he says that he is prejudiced, and hath damage to the value of 40 *l.* And therefore he produces the suit, &c.

Lessee made the defendant executrix and died, and she entred.

The defendant pleads an assignment by the lessee, and that the assignee entred in the lessee's life-time.

And the said Mary by Francis Reading her attorney comes and defends the force and injury when, &c. and says, that the said Henry Tindall ought not to have or maintain his action aforesaid thereof against her, because she says, that after the making of the articles aforesaid in the declaration aforesaid mentioned, the said Edward Wood in his life-time, by his certain writing sealed with his seal, made at the parish of St. Giles Cripplegate aforesaid in the county aforesaid on the 21st day of January in the year of the Lord 1692, which the same Mary here in court produces, for and in consideration of the sum of 18 *l.* 5 *s.* 6 *d.* to the same Edward in hand paid by one Ralph Harwood, bargained, sold and assigned, to the said Ralph Harwood all his estate, right, title, property, benefit, claim and demand whatsoever of, in, to or out of the demised premises aforesaid, by force and virtue of the said demise, writing or instrument, or otherwise howsoever; by virtue whereof he the said Ralph afterwards, to wit, the first day of February in the year of the Lord 1692 aforesaid, into the demised premises so to him as aforesaid bargained, sold and assigned, with the appurtenances, entred, and was and yet is thereof possessed: And the same Mary farther says, that he the said Edward Wood in his life-time afterwards, to wit, on the 10th day of February in the year last aforesaid, at the parish aforesaid in the county aforesaid, gave notice to the same Henry of the assignment aforesaid to the said Ralph so as aforesaid made: And this the same Mary is ready to verify: Wherefore she prays judgment if the said Henry ought to have or maintain his action aforesaid thereof against her, &c.

On this issue was joined, but the plaintiff did not dare to go on because his declaration should have been in the Detinet only, and not in the Debt & Detinet.

Pelline and Fox.

Bill against the warden of the Fleet for an escape out of execution.

Midd, to wit. **B**E it remember'd that on the 23d day of January in this same term comes here into court Cornelius Pelline by John Brooke his attorney, and exhibits his bill against Thomas Fox, Esq; warden of the prison of the Lord the now King of the Fleet, present here in court in his proper person, in a plea of debt, the tenor of which said bill follows in these words: To the justices of the Lord the King of the Bench, Middlesex, to wit, Cornelius Pelline by John Brooke his attorney complains of Thomas Fox, Esq; warden of the prison of the Lord the King of the Fleet, present here in court in his proper person, for this, that he hath not paid to the same Cornelius 151 *l.* 3 *s.* of lawful money which he owes him and unjustly detains, for this, to wit, that whereas the said Cornelius, otherwise, to wit, in Easter term in the 4th year of the reign of the Lord the now King and the Lady Mary late Queen of England, &c. in the court of the said Lord the King and the Lady the late Queen before the King and late Queen themselves, the same court then being at Westminster in the county of Middlesex, did by the judgment of the same court recover against Mark Goodyear, otherwise called Mark Goodyear of London, Gent.

The recovery of the judgment.

150*l.* debt, as also 23*s.* for his damages which he had sustained as well by reason of the detention of that debt as for his costs and charges by him about his suit in that behalf expended, whereof the same *Mark* is convicted, as by the record thereof now remaining in the court of the said Lord the now King before the King himself at *Westminster* more fully is manifest and appears; which said debt and damages in the whole amount to the said 151*l.* and 3*s.* and afterwards, to wit, on *Monday* next after the *Octave* of the Purification of the Blessed *Mary* in *Hillary* term in the 4th and 5th year of the reign of the said Lord the King and Lady the late Queen, in the court of the said Lord the King and the Lady the late Queen before the King and late Queen themselves at *Westminster*, came the said *Cornelius* The party committed in execution. in his proper person, and the said *Mark* then in the same court present, and being in the same court then at the petition of the said *C.* was by the same court duly committed to *W. B. Esq.* being then marshal of the *Marshalsey* of the said Lord the King and the Lady the late Queen, before the Lord the King and the Lady the late Queen themselves at *Westminster*, in execution at the suit of the said *C.* for the debt and damages aforesaid, there to remain until, &c. as by the record and proceedings thereof in the same court of the said Lord the King before the King himself at *Westminster* remaining more fully appears; by virtue of which said commitment, the said *W. B.* being then and yet marshal of the *Marshalsey* aforesaid received him the said *M.* into his custody in execution for the debt and damages aforesaid, and had detained and kept him the said *M.* in execution for the debt and damages aforesaid; and he the said *M.* being as aforesaid in the custody of the marshal of the *Marshalsey* aforesaid, in execution for the debt and damages aforesaid, afterwards, to wit, on the 7th day of *July* in the fifth year of the reign of the said Lord the King and the Lady the late Queen, he the same *M.* being so as aforesaid in execution for the debt and damages aforesaid, by virtue of a writ of the said Lord the King and the Lady the late Queen of *Habeas corpus cum causa*, out of the court of the said Lord the King and the Lady the late Queen of the Bench here duly issuing, and to the said marshal of the *Marshalsey* of the said Lord the King and the Lady the late Queen before the Lord the King and the Lady the late Queen themselves directed, was brought and had, charged in execution with the cause aforesaid before *John Powell*, being then one of the justices of the said Lord the King and Lady the late Queen of the Bench here, with the cause aforesaid, at the parish of *St. Clement Danes* in the county of *Middlesex* aforesaid by the marshal of the *Marshalsey* aforesaid; and thereupon the said *M.* by the said *John Powell*, then one of the justices of the said Lord the King and the Lady the late Queen of the Bench here as aforesaid, then and there, to wit, on the said 7th day of *July* in the fifth year above said at the said parish of *St. Clement Danes* aforesaid was duly committed to the custody of the said *Thomas Fox*, then and yet warden of the prison of the *Fleet* aforesaid, charged in execution for the debt and damages aforesaid, as by the record and proceedings thereof in the same court of the said Lord the King of the Bench here remaining more fully appears: By virtue of which said commitment the said *Thomas Fox*, then being warden of the prison of the *Fleet* aforesaid, the said *M.* in his custody in execution for the debt and damages aforesaid then and there had and detained; and the said *Thomas Fox* warden of the prison of the *Fleet* then and yet being afterwards, to wit, on the 23d day of *November* in the sixth year of the reign of the said Lord the King and the Lady the late Queen, at the parish of *St. Clement Danes* aforesaid, the premisses well knowing, not regarding the duty of his office, but contriving and fraudulently intending to cause the said *Cornelius* totally to lose the debt and damages aforesaid, the said *M.* out of the custody of him the said *Tho. Fox*, being then and yet warden of the said prison of the *Fleet* aforesaid, and out of the execution aforesaid, against the will and without the licence or knowledge of the said *Cornelius*, the same *Cornelius* of the debt and damages aforesaid, or of any part thereof, being not satisfied, at large where he would then and there permitted to go and escape; whereby an action accrued to the same *Cornelius* to demand and have of the said *Thomas Fox* the said 151*l.* 3*s.* Nevertheless the said *Thomas Fox* the said 151*l.* 3*s.* to the said *Cornelius* hath not yet paid, but hath hitherto altogether denied to pay him the same; whereby he says that he is prejudiced, and hath damages to the value of 20*l.* And therefore he prays remedy, &c. Pledges to prosecute *J. D.* and *R. R.*

Turned over to the Fleet on a Habeas corpus.

Suffered the party to escape.

And the said *Thomas Fox* in his proper person comes and defends the force and injury when, &c. And says, that the declaration aforesaid, and the matter in the same contained, are not sufficient in law for the said *Cornelius* to maintain his action aforesaid against the said *Thomas* had, and that he the said *Thomas Fox* to that declaration in manner and form aforesaid made hath no necessity, nor is by the law of the land obliged in any manner to answer: And this he is ready to verify: Wherefore for want of a sufficient declaration the same *Thomas* prays judgment, and that the said *Cornelius* may be precluded from his action aforesaid against the said *Thomas* had, &c.

Demurrer to the bill. Salk. 753.

Joinder in demurrer.
Salk. 753.

Judgment for the plaintiff.

And the said *Cornelius*, for that he hath above declared sufficient matter in law in his declaration aforesaid to maintain his said action against the said *Thomas* had, which he is ready to verify, which said matter the said *Thomas* doth not deny, nor any way answer to it, but doth wholly refuse to admit that averment, as before, prays judgment and his debt aforesaid, together with his damages by reason of the detention of that debt, to be adjudged to him, &c. And because the justices here will advise themselves of and upon the premises before they give judgment thereon, day is given to the parties aforesaid here until *Wednesday* next after fifteen days of *Easter* to hear their judgment thereon, because the same justices here thereof not yet, &c. On which day here comes as well the said *Cornelius* by his attorney aforesaid, as the said *Thomas* in his proper person; and hereupon the premises being seen, and by the justices here more fully understood, it seems to the same justices here, that the declaration and the matter in the same contained are sufficient in law for the said *Cornelius* to maintain his action aforesaid against the said *Thomas* had, as the said *Cornelius* hath above alledged: Therefore it is considered, that the said *Cornelius* recover against the said *Thomas* his debt aforesaid, and his damages by reason of the detention of that debt to 100*s.* to the same *Cornelius* with his assent by the court here adjudged: And the said *Thomas* in mercy, &c.

Ashton and Sherman.

Hill 8. W. 3. Roll 698.

Declaration against husband and wife administratrix on a bill penal payable at several times.

London, to wit. **N**icholas Ashton complains of *John Sherman*, Gent. and *Mary* his wife, administratrix of all and singular the goods and chattels, rights and credits which belonged to *William Field* lately deceased, who as it is said died intestate, otherwise lately called *William Field* citizen and merchant-taylor of *London*, being in the custody of the marshal of the *Marshalsea* of the Lord the King before the King himself, in a plea that they render to him 30*l.* of lawful money of *England* which they unjustly detain from him, for this, to wit, that whereas the said *William Field* in his life-time, to wit, on the 29th day of *September* in the year of the Lord 1694, at *London* aforesaid, to wit, in the parish of *St. Mary le Bow* in the ward of *Cheape*, by his certain bill obligatory sealed with the seal of the said *William* in his life-time, and to the court of the said Lord the now King here shewn, the date whereof is the same day and year, acknowledged himself to be indebted to the same *Nicholas* in the sum of 15*l.* 10*s.* 6*d.* of lawful money of *England*, to be paid to the same *Nicholas*, his executors, administrators or assigns in manner following, to wit, the sum of 5*l.* part thereof on the 29th day of *October* then next following the date of the bill obligatory aforesaid, and the sum of 5*l.* other part thereof on the 29th day of *November* then next ensuing, and the sum of 5*l.* 10*s.* 6*d.* the residue in full thereof on the 24th day of *December* then next following the date of the bill obligatory aforesaid; and for the true payment thereof the said *William Field* bound himself, his heirs, executors and administrators, in the said sum of 30*l.* firmly by the said bill: And the said *Nicholas* in fact says, that the said *William Field* in his life-time, or the said *John* and *Mary* after the death of the said *William*, did not pay, nor did either of them pay, to the said *Nicholas* on the said 29th day of *October* in the bill aforesaid above specified, the said sum of 5*l.* which they ought to have paid to him on the same day, according to the form and effect of the bill obligatory aforesaid; whereby an action accrued to the said *Nicholas* to demand and have of the said *William* in his life-time, and of the said *John* and *Mary* after the death of the said *William*, the said 30*l.* Nevertheless the said *William* in his life-time, and the said *John* and *Mary* after the death of the said *William*, although often required, &c. have not yet paid, nor hath either of them paid the said 30*l.* to the same *Nicholas*, but the said *John* and *Mary* do yet refuse to pay the said *Nicholas*, and unjustly detain the same, to the damage of the said *Nicholas* 20*l.* And therefore he produces the suit, &c.

The defendants plead a judgment against the intestate on a *Mutatus* in C. B.

And the said *John* and *Mary*, &c. and say that the said *Nicholas* ought not to have or maintain his action aforesaid thereof against them, because they say, that the said *W. F.* in his life-time, to wit, on the first day of *June* in the fifth year of the reign of the Lord the now King and of the Lady *Mary* the late Queen at *London*, to wit, in the parish and ward aforesaid, borrowed of one *Robert Waring*, Gent. 100*l.* to be paid to the said *Robert* when he should be thereto required; wherefore the said *Robert* for the recovery of his debt aforesaid, to wit, in *Michaelmas* term in the fifth year of the reign of the said Lord the King and of the Lady the late Queen aforesaid, in the court of the said Lord the King and of the Lady the late Queen of the Bench, at *Westminster* in the county of *Middlesex*, impleaded the said *W. F.* in his life-time in a plea of debt for the said 100*l.* in which said plea it was in such manner proceeded in the same court of the said Lord the now King and of the Lady the late Queen of the Bench, that the said *Robert* in the said *Michaelmas* term in

in the 5th year above said by the judgment of the same court recovered against the said *W. F.* in his life-time as well the said debt of 100*l.* as 30*s.* for his damages which he had by reason of the detention of that debt, to the same *Robert* with his assent by the said court of the Lord the now King and the said late Lady the Queen of the Bench adjudged, as by the record and proceedings thereof remaining in the court of the Lord the now King at *Westminster* afore said more fully is manifest and appears: And the said *John* and *Mary* farther say, that the said *W. F.* in his life-time, to wit, on the 20th day of *March* in the 4th year of the reign of the said Lord the now King and of the Lady *Mary* the late Queen of *England*, at *London* afore said in the parish and ward afore said, by his certain writing obligatory acknowledged himself to be bound to one *Gilbert East* in 100*l.* to be paid to the same *Gilbert* when he should be thereto required, and that after the death of the said *W. F.* the said debt of 100*l.* not being paid or satisfied, the said *G.* for the recovery of his debt afore said after the death of the said *W. F.* to wit, in *Michaelmas* term in the 6th year of the reign of the said Lord the now King and of the Lady *Mary* the late Queen, in the said court of the said Lord the now King and of the Lady the late Queen of the Bench at *Westminster* afore said, impleaded them the said *J.* and *M.* as administratrix of the goods and chattels of the said *W. F.* in a plea of debt for the said 100*l.* of and upon the writing obligatory afore said, in which said plea it was in such manner proceeded, that the said *G.* in the same *Michaelmas* term in the 6th year above said, by the judgment of the said court of the said Lord the now King and of the Lady *Mary* the late Queen, did recover against the said *J.* and *M.* the said debt of 100*l.* and his damages by reason of the detention of that debt to 40*s.* to the same *G.* with his assent by the said court adjudged, to be levied on the goods and chattels which were of the said *W. F.* at the time of his death in the hands of the said *J.* and *M.* to be administered, if they had so much thereof in their hands to be administered; and if they had not so much in their hands to be administered, then the damages afore said to be levied on the proper goods and chattels of them the said *J.* and *M.* as by the record and proceedings in the said court of the Lord the now King of the Bench at *Westminster* remaining more fully is manifest and appears: And the said *J.* and *M.* farther say, that they have fully administered all the goods and chattels which belonged to the said *W. F.* at the time of his death in their hands to be administered, and that they have not, nor had on the day of the exhibition of the bill of the said *N.* or ever after, any goods or chattels which belonged to the said *W. F.* at the time of his death in their hands to be administered, except goods and chattels to the value of 10*l.* which are not sufficient to satisfy the several judgments in form afore said given, and which to the execution and satisfaction thereof are bound and charged; with this, that the same *J.* and *M.* will verify, that the said several debts in the said several judgments as afore said recovered were and yet are true and just debts and not paid, and that the several judgments afore said are in their full force and strength, not reversed, annulled or satisfied; and that the said *W. F.* and the same *J.* and *M.* in the several judgments afore said respectively named, and the said *W. F.* and the same *J.* and *M.* in the bill of the said *N.* named, are the same persons, and not other nor divers: And this they are ready to verify: Wherefore they pray judgment if the said *N.* ought to have or maintain his action afore said thereof against them, &c.

Judgment against them on a bond given by the intestate.

Fully administered except 10*l.*

Averments.

N. Hooper.

And the said *Nicholas* says, that he by any thing by the said *J.* and *M.* his wife above in pleading alledged ought not to be precluded from his action afore said thereof against them had, because as to the said judgment against the said *J.* and *M.* by the said *G. E.* as afore said obtained, in the plea afore said mentioned, the same *N.* says that 30*l.* only and no more of the money afore said by the said *G. E.* against the same *J.* and *M.* in form afore said recovered were justly and really due, and that after the rendring of the said judgment, to wit, on the 1st day of *March* in the 7th year of the reign of the said Lord the now King, at the parish and ward afore said, the said *J.* and *M.* paid to the same *G. E.* the said 30*l.* in full satisfaction and discharge of that judgment; and the same *G.* the same 30*l.* of the said *J.* and *M.* in full satisfaction and discharge of that judgment and of the whole money thereby recovered, then and there received and accepted: Nevertheless the said *J.* and *M.* have hitherto permitted the judgment by the said *G.* so as afore said obtained against them to be and remain in its full force and strength fraudulently and deceitfully, and with an intent to defraud and deceive him the said *N.* of his debt afore said, to wit, at the parish and ward afore said: And this he is ready to verify: Wherefore he prays judgment and his debt afore said, together with his damages by reason of the detention of that debt, to be adjudged to him, &c. And as to the judgment afore said by the said *Robert Waring* against the said *W. F.* as afore said obtained, in the plea afore said above mentioned, the same *N.* says, that 28*l.* only and no more of the money afore said by the said *R. W.* against the said *W. F.* in form afore said recovered were justly and really due to the same *R.* at the time of the rendring of that judgment, and that from the time of the rendring of that judgment hitherto the said *R. W.* was always ready and yet is ready to receive and accept of the same *J.* and *M.* the said 28*l.* in full satisfaction and discharge of the judgment last mentioned and of the whole money thereby recovered, to wit, at the parish and ward afore said: Nevertheless the said *J.* and *M.* the payment of the same 28*l.* to the same *R. W.* hitherto deceitfully

Repl. as to one judgment, that there was but 30*l.* due which they had paid, and keep the judgment on foot by fraud.

The like replication to the other judgment.

deceitfully have deferred, and have suffered the judgment last mentioned to be and remain in its full force and strength, with an intent to defraud and deceive the same *N.* of his debt aforesaid, to wit, at the parish and ward aforesaid: And this he is ready to verify: Wherefore he prays judgment and his debt aforesaid, together with his damages by reason of the detention of that debt, to be adjudged to him, &c. And the said *Nicholas* farther says, that the said *J.* and *M.* on the day of the exhibition of the bill of the said *N.* had divers goods and chattels which belonged to the said *W. F.* at the time of his death in their hands to be administered to the value of the debt of the said *N.* above demanded, besides goods and chattels sufficient to satisfy the said *G. E.* his debt and damages aforesaid against the said *J. S.* and *M.* his wife, as aforesaid recovered, and also the 28 *l.* to the said *R. W.* as aforesaid due, wherewith they might satisfy the same *N.* his debt aforesaid, to wit, at the parish and ward aforesaid: And this he prays may be inquired of by the country, &c.

And that they have assets sufficient, &c.

Demurrer. And the said *J.* and *M.* say, that the plea aforesaid by the said *N.* in manner and form aforesaid above in replying pleaded, and the matter in the same contained, are not sufficient in law for the said *N.* to maintain his action aforesaid thereof against the said *J.* and *M.* had, and that they to that plea in manner and form aforesaid pleaded have no necessity, nor are by the law of the land obliged, in any manner to answer: And this they are ready to verify: Wherefore for want of a sufficient replication of the said *N.* in this behalf the same *J.* and *M.* pray judgment, and that the said *N.* may be precluded from his action aforesaid thereof against them the said *J.* and *M.* had, &c. And for causes of demurrer in law, according to the form of the statute in such case made and provided, the same *J.* and *M.* do set down and to the court here express the causes following, to wit, Because the replication aforesaid is double, and because there are several conclusions, and the said *N.* prays judgment twice where he ought only to have prayed judgment once, and because the said *N.* hath concluded ill to the country, where he ought not.

Edw. Northey.
Nic. Hooper.

Joinder. And the said *N.* says, that the plea aforesaid by the said *N.* in manner and form aforesaid above in replying pleaded, and the matter in the same contained, are good and sufficient in law for the said *N.* to maintain his action aforesaid thereof against the said *J.* and *M.* had; which said plea, and the matter in the same contained, he the same *N.* is ready to verify and prove, as the court, &c. And because the said *J.* and *M.* do not answer to that plea, nor hitherto in any wise deny it, he the said *N.* as before prays judgment and his debt aforesaid, together with his damages by reason of the detention of that debt, to be adjudged to him, &c. But because the court of the Lord the now King here are not yet advised to give their judgment of and upon the premisses, a day is therefore given to the parties aforesaid before the Lord the King at *Westminster* until day next after to hear their judgment of and upon those premisses, because the court of the Lord the King now here thereof not yet, &c.

Hackett against Tilly.

Replication. ON recovery against the warden of the Fleet in debt for an escape, which was affirmed on a writ of error. AND the said *Andrew Hackett* says, that he by any thing by the said *John* above in pleading alledged ought not to be precluded from his action aforesaid thereof against him the said *John* had, because he says, that the said *Thomas Fox* in his life-time, to wit, at the time of the making of the writing obligatory aforesaid, as also on the first day of April in the 7th year of the reign of the Lord *William* the Third, late King of England, &c. and before, was warden of the prison of the said late King of the Fleet, to wit, at London aforesaid in the parish of St. Mary le Bow in the ward of Cbeape: And the said *John Tilly* for all the time above said, to wit, on and before the said first day of April, as also at the time of the making of the writing obligatory aforesaid, was a servant having and exercising the care and custody of the said prison, and of the prisoners thereto committed under the said *Thomas Fox*, to wit, at the parish and ward aforesaid; and that while the said *Thomas* was so warden of the said prison, and the said *John* had and exercised the care and custody of the said prison and of the prisoners thereto committed as aforesaid, and lately before the making of the said writing obligatory, to wit, the same first day of April before mentioned, at the parish and ward aforesaid, one *Francis Hynde*, Gent. was a prisoner in the said prison of the Fleet in execution at the suit of one *Andrew Hackett*, Knt. for a certain debt of 1000 *l.* and 46 *s.* for damages, and out of the said prison, without the licence and against the will of the said *Thomas Fox*, and with the licence and permission of the said *John Tilly*, did go and make an escape, the same *Andrew* being then not satisfied his debt and damages aforesaid, whereof the said *John* at and before the time of the making of the same writing had notice, to wit, at

at London aforesaid in the parish and ward aforesaid; and the said *Thomas* being so as aforesaid warden of the said prison, the same *Andrew Harkett*, Knt. before the making of the writing obligatory aforesaid, to wit, on the 12th day of *April* in *Easter* term in the 7th year of the reign of the said late King, came into the court of the same late King before *George Treby*, Knt. and his companions, justices of the said late King of the Bench at *Westminster*; by *Henry Clift* then his attorney, and then exhibited to the same justices his certain bill against the said *Thomas Fox*, warden of the prison of the said late King of the *Fleet*; then present in the same court in his proper person, in a plea of debt, by which said bill the same *Andrew* then complained, that the said *Thomas* unjustly detained and did not render to the same *Andrew* 1002 l. 6 s. which he owed him, for this, to wit, that whereas the same *Andrew* otherwise, to wit, in *Easter* term in the 5th year of the reign of the said late King and the Lady *Mary* the late Queen, in the court of the said late King and Queen before the late King and Queen themselves, the same court then being at *Westminster* in the county of *Middlesex*, by bill, without the writ of the same late King and Queen; and by the judgment of the same court had recovered against the said *Francis Hynde*, Gent. as well a certain debt of 1000 l. as 46 s. which were adjudged to the same *Andrew* in the said court for his damages which he had sustained as well by reason of the detention of that debt as for his costs and charges by him about his suit in that behalf expended, whereof the said *Francis* was convicted; and the same *Francis Hynde* afterwards, to wit, on *Monday* next after the morrow of the Ascension of the Lord in the 6th year of the reign of the said late King and Queen, being then present in his proper person in the same court of the said late King and Queen before the said late King and Queen themselves, at *Westminster* in the county of *Middlesex* aforesaid, at the petition of the said *Andrew* was by the same court of the said late King and Queen before the late King and Queen themselves there committed to the custody of the marshal of the *Marshalsea* of the said late King and Queen before the late King and Queen themselves in execution for the debt and damages aforesaid, at the suit of the said *Andrew*, there to remain until, &c. as by the record and proceedings as well of the judgment aforesaid, as of the said commitment in execution in the said court of the said late King before the said late King himself at *Westminster* aforesaid remaining, more fully did appear: By virtue of which said commitment the said marshal of the *Marshalsea* aforesaid the same *Francis* into his custody then and there had received, and him in execution for the debt and damages aforesaid had and detained; and the said *Francis* so being in the custody of the marshal of the *Marshalsea* aforesaid in execution for the debt and damages aforesaid in form aforesaid, afterwards, to wit, on the 24th day of *May* in the 6th year aforesaid, the said *Francis* came in his proper person under the custody of the said marshal of the *Marshalsea* aforesaid, before *John Powell*, Knt. then one of the justices of the said late King and Queen of the Bench, at his chambers situate in *Chancery-lane*, London, being brought by virtue of a writ of *Habeas corpus* issuing out of the court of the said late King and Queen of the Bench at *Westminster* directed to the said marshal; and the same marshal, to wit, *William Briggs*, then returned to the same justice (among other things) that the said *Francis Hynde* was charged in execution at the suit of the said *Andrew* for the said 1000 l. debt and 46 s. for damages so aforesaid recovered, the body of which said *Francis* he then and there had ready before the said justice according to the tenor of the writ aforesaid, upon which the said *Francis Hynde* was then and there committed by the same justice to the said prison of the said late King and Queen of the *Fleet* in execution for the debt and damages aforesaid (among other things), there to remain until, &c. which said commitment the same justice afterwards, to wit, on the 8th day of *June* in *Trinity* term in the 6th year aforesaid, delivered with his own proper hands into the same court of the Bench to be inrolled on record, and the same commitment is in the said court inrolled on record, as by the record of the said writ and the return thereof, and the commitment in execution last mentioned in the same court of the Bench aforesaid at *Westminster* aforesaid remaining, did more fully and manifestly then appear: By virtue of which said commitment the said *Thomas Fox* being warden of the said prison of the *Fleet* aforesaid, on the 24th day of *May* in the 6th year aforesaid, the said *Francis Hynde* into his custody then and there, to wit, before the said justice at his chambers aforesaid situate in *Serjeants Inn* aforesaid, had taken, and the said *Francis Hynde* immediately unto and into the said prison of the *Fleet* then being at London, to wit, in the parish of *St. Bridget*, otherwise *Brides*, in the ward of *Farringdon Without*, had carried and put, and the same *Francis* in that prison in execution for the debt and damages aforesaid then and there had had and detained; and the said *Francis* being so detained in the custody of the said *Thomas* as aforesaid in execution for the debt and damages aforesaid in form aforesaid, the said *Thomas* afterwards, to wit, on the 1st day of *April* in the 7th year of the reign of the said late Lord King *William* the Third, being then as aforesaid warden of the said prison of the said Lord the King of the *Fleet*, freely and voluntarily permitted the said *Francis Hynde* out of that prison and out of his custody to escape and go at large where he would, to wit, at London aforesaid in the parish and ward aforesaid,

The bill exhibited against the warden.

The recovery against the prisoner in the King's Bench.

The commitment to the marshal in execution.

Habeas corpus.

Turned over to the warden of the *Fleet*.

who permitted him to escape.

whereby action accrued. aforefaid, the fame *Andrew* being then not fatisfied the debt and damages aforefaid or any parcel thereof; whereby an action had accrued to the fame *Andrew* to demand and have of the faid *Thomas* the faid 1002 l. 6 s. Nevertheless the faid *Thomas*, although he had been often required, had not then before rendered the faid 1002 l. 6 s. to the faid *Andrew*, but had then altogether denied, and did then deny to render him the fame; whereby the fame *Andrew* then faid that he had been prejudiced, and had damage to the value of 500 l.

Remedy prayed. And therefore he then prayed remedy, &c. with this, that the fame *Andrew* would then verify, that the judgment aforefaid did then remain in its full force and vigour, not revoked, reversed, annulled, vacated or fatisfied, &c. and did then find pledges to prosecute, to wit, *John Doe* and *Richard Roe*: Upon which faid bill first mentioned in the fame court of the faid late King before the faid justices of the faid late King of the Bench at *Westminster*, it was in fuch manner proceeded, that afterwards, to wit, in the fame *Easter* term in the 7th year of the reign of the faid late King abovefaid, the faid *Andrew Hackett* did by the confideration of the fame court recover againft the faid *Thomas Fox* the faid debt of 1002 l. 6 s. and his damages by reason of the detention of that debt to 80 s. by the fame court of faid late King to the fame *Andrew* adjudged: And that the faid *Thomas* fhould be in mercy, &c. And the fame *Andrew* farther fays, that after the judgment aforefaid in form aforefaid given, and after the making of the writing obligatory aforefaid, to wit, on the 24th day of *May* in the 7th year of the reign of the faid late King, the faid *Thomas Fox* by the advice and at the request of the faid *John Tilly*, for the reversal of the judgment aforefaid, prosecuted out of the court of *Chancery* of the faid late King, the fame court being then here at *Westminster* in the county of *Middlesex*, a certain writ of the faid late King to correct error in the record and proceedings and in the rendring of that judgment, directed to *George Treby*, Knt. then chief justice of the faid late King of the Bench, by which faid writ the faid late King commanded his faid chief justice, that if judgment was thereon given then he fhould diftinctly and openly fend the record and proceedings of the plea aforefaid with all things touching the fame to the faid late King under his feal, and that writ, fo that the faid late King might have them from the day of the Holy *Trinity* in three weeks then next following wherever he fhould then be in *England*, that the record and proceedings aforefaid being infpected, he might farther caufe to be done therein to correct that error what of right and according to the law and custom of his kingdom of *England* was to be done: By virtue of which faid writ of error afterwards, to wit, on the day of the return of the writ aforefaid, the record and proceedings of the plea aforefaid with all things touching the fame, into the court of the faid late King before the late King himfelf, the fame court then being at *Westminster* in the county of *Middlesex* aforefaid, were duly fend and removed: Whereupon it was in fuch manner proceeded upon the faid writ of error in the faid court of the faid late King before the faid late King himfelf, that afterwards, to wit, in *Easter* term in the 8th year of the reign of the faid late King, it was confidered by the fame court of the faid late King before the faid late King himfelf, that the judgment aforefaid fhould ftand in its full force and effect, and that the judgment aforefaid fhould be in all things affirmed, as by the record and proceedings of the judgment aforefaid in the court of the faid Lady the now Queen before the Queen herfelf at *Westminster* aforefaid remaining more fully appears; which faid judgments do yet remain in their full force and effect, not reversed, annulled or fatisfied: And the fame *Andrew* farther fays, that the faid *Thomas* in his life-time, to wit, within the fpace of two years next after the date of the writing obligatory aforefaid, and a little while after the making of the fame, to wit, on the 21st day of *May* in the year of the Lord 1695 abovefaid, at *London* aforefaid in the parifh of *St. Mary le Bow* in the ward of *Cheape* aforefaid, gave notice to the fame *John Tilly* of the faid action fo as aforefaid prosecuted by the faid *Andrew Hackett* againft the faid *Thomas*, and required the fame *John* to keep the faid *Thomas* indemnified therefrom: Nevertheless the faid *John Tilly*, within the fpace of two years next enfuing the date of the faid writing obligatory, or at any time after in the life-time of the faid *Thomas*, hath not faved harmlefs nor kept indemnified him the faid *Thomas Fox* from the faid action fo as aforefaid prosecuted againft the faid *Thomas* by the faid *Andrew Hackett*, Knt. And this he is ready to verify: Wherefore he prays judgment and his debt aforefaid, together with his damages by reason of the detention of that debt, to be adjudged to him, &c.

Judgment affirmed. Notice. Hath not indemnified, &c.

Prise and his wife against James.

Midd., to wit. **T** *Thomas Arden Prise*, Bart. and *Elizabeth* his wife, executrix of the last will and testament of *John Denbam*, Knight of the *Bath*, her late father deceased, complain of *John James*, Knt. otherwise lately called *John James* of *Scotland-yard* in the county of *Middlesex*, Esq; in the custody of the marshal, &c. in a plea that he render to them 30*l.* of lawful money of *England* which he unjustly detains from them, for this; to wit, that whereas the said *John Denbam* in his life-time, to wit, on the 12th day of *November* in the 10th year of the reign of the Lord *Charles* the Second; now King of *England*, &c. at the parish of *St. Martin in the Fields* in the county of *Middlesex* aforesaid, by his certain indenture made between him the said *John Denbam*, by the name of the Honourable *John Denbam*, Knight of the *Bath*, of the one part, and the said *John James* aforesaid, by the name of *John James* of *Scotland-yard* in the county of *Middlesex*, Esq; of the other part, which other part sealed with the seal of the said *John James* the same *Thomas* and *Elizabeth* here in court produce, the date whereof is the same day and year aforesaid, had demised, granted and to farm let unto the said *John James* all those chambers, cellars, closets, kitchen, coal-house, coach-house, acre or piece of land, and other rooms of the said *John Denbam* then in the occupation of the said *John James*, and situate and being in *Scotland-yard* aforesaid near *Whitehall* in the parish of *St. Martin in the Fields* aforesaid in the county of *Middlesex* aforesaid, with all ways, passages, lights, easements and appurtenances to the said premises belonging; To have and to hold the said demised premises with the appurtenances to the said *John James*, his executors, administrators and assigns, from the feast-day of *St. Michael* the Archangel then last past unto the full end and term of 30 years from thence next ensuing and fully to be compleat and ended; Yielding and paying therefore during the two first years and three quarters of a year of the said term of 30 years to the said *John Denbam*, his executors, administrators and assigns, the yearly rent of a pepper-corn at the feast of *St. Michael* the Archangel, if the same should be legally demanded; And also yielding and paying to the said *John Denbam*, his executors, administrators or assigns, during all the residue of the said term of 30 years, the yearly rent of 60*l.* of lawful money of *England* on the feast of *St. Michael* the Archangel, the Birth of our Lord God, the Annunciation of the Blessed Virgin *Mary*, and the Nativity of *St. John* the Baptist, as by the said indenture among other things more fully appears: By virtue of which said demise the same *John James* afterwards, to wit, on the first day of *January* in the 10th year aforesaid into the premises aforesaid with the appurtenances entred, and was and yet is thereof possessed; and the said *John Denbam* afterwards, to wit, on the 13th day of *March* in the year of the Lord 1668, in the parish of *St. Martin in the Fields* aforesaid in the county of *Middlesex* aforesaid, made his last will and testament in writing, and by the same constituted and ordained the said *Elizabeth* sole executrix thereof, and afterwards, to wit, on the first day of *May* in the year of the Lord 1670, at the parish of *St. Martin in the Fields* aforesaid in the county of *Middlesex* aforesaid died, after the death of which said *John Denbam* she the said *Elizabeth* took upon herself the burden of the execution of the said will, and afterwards, to wit, on the 9th day of *May* in the year of the Lord last aforesaid, at the parish of *St. Martin in the Fields* aforesaid in the county of *Middlesex* aforesaid, the same will in due form of law proved; and afterwards, to wit, on the first day of *May* in the 29th year of the reign of the said Lord the now King, at the parish of *St. Martin in the Fields* aforesaid in the county of *Middlesex* aforesaid, took to husband the said *Thomas*, and 30*l.* for the rent of the premises aforesaid for half a year ended at the feast of the Nativity of *St. John* the Baptist last past, to the same *Thomas* and *Elizabeth* after the death of the said *John Denbam*, and after the espousals between the same *Thomas* and *Elizabeth* celebrated, were in arrear, and yet are in arrear and unpaid; whereby an action accrued to the same *Thomas* and *Elizabeth* to demand and have of the said *John James* the said 30*l.* Nevertheless the said *John James*, altho' often required, &c. the said 30*l.* to the same *Thomas* and *Elizabeth*, or either of them, hath not yet paid, but hath altogether denied, and yet doth deny to pay them, and unjustly detains the same, to the damage of the said *Thomas* and *Elizabeth* 60*l.* And therefore they produce the suit, &c. And the same *Thomas Arden Prise* and *Elizabeth* produce here in court the letters testamentary of the said *John Denbam*, whereby it sufficiently appears to the court here that she the said *Elizabeth* is executrix of the will aforesaid, &c.

Debt for rent by an executrix due in the testator's time.

Lease.

Premises.

Habendum.

Reddendum.

The defendant entred.

The lessor made his will and plaintiff Elizabeth executrix.

The marriage of the executrix.

Breach.

Smith against Povey.

Plea.

To part, not
indebted.
Pract. Reg.
562.To the re-
sidue, tender.
5 Co. 114.Salk. 622,
624.

AND the said *Josias* by *Gabriel Leach* his attorney comes and defends the force and injury when, &c. And says, that the said *John* ought not to have or maintain his action aforesaid thereof against him, because as to the said 13 *l.* in the declaration aforesaid first mentioned, part of the said 26 *l.* and as to 8 *l.* 15 *s.* 9 *d.* of the said 13 *l.* in the said declaration second mentioned, the remaining part of the said 26 *l.* the same *Josias* says that he doth not owe to the said *John Smith* the same 13 *l.* or the same 8 *l.* 15 *s.* 9 *d.* or any penny thereof: And of this the same *Josias* puts himself on the country: And the said *John* thereof likewise: And as to 4 *l.* 4 *s.* 3 *d.* residue of the said 13 *l.* in the declaration aforesaid second mentioned (the same 13 *l.* last specified being the said remaining part of the said 26 *l.* and being the said rent for the said demised premisses in that declaration second specified) the same *Josias* says, that well and true it is that the said 4 *l.* 4 *s.* 3 *d.* of the rent aforesaid, upon the demise aforesaid in the declaration aforesaid second mentioned, at the feast of the Birth of our Lord Christ in the year of the Lord 1701 aforesaid were in arrear, and yet are in arrear: But the same *Josias* farther says, that he the same *Josias* on the said feast of the Birth of our Lord Christ in the year of the Lord 1701 aforesaid, for the space of half an hour next before and until the setting of the sun of the same feast at the said other house in the declaration aforesaid mentioned was ready, and then and there offered to pay to the said *John* the said 4 *l.* 4 *s.* 3 *d.* which he ought to have paid to the said *John* on that feast, according to the form and effect of the covenant aforesaid in that behalf in the declaration aforesaid mentioned; and that the said *John*, nor any other on the behalf of the said *John* lawfully authorized, was not then and there ready to receive of the same *Josias* the said 4 *l.* 4 *s.* 3 *d.* And that the same *Josias* on the same feast-day, and alway after the said feast of the Birth of our Lord Christ in the year 1701 aforesaid hitherto was ready, and yet is ready to pay to the said *John* the said 4 *l.* 4 *s.* 3 *d.* and the same here into court brings ready to be paid to the said *John*, if he the said *John* will accept the same; which all and singular the same *Josias* is ready to verify, &c. Wherefore he prays judgment if the said *John* for damages against the said *Josias* ought to proceed, &c.

R. Acherley.

*Birkhead against Rowe.*Debt on bond
by an execu-
tor.

London, to wit. JOHN Birkhead, Gent. executor of the last will and testament of *Dorothy Birkhead*, widow, deceased, complains of *Anthony Rowe*, Esq; otherwise called *Anthony Roe* of the parish of *St. Martin in the Fields* in the county aforesaid, Esq; in the custody of the marshal, &c. in a plea that he render to him 1400 *l.* of lawful money of *England*, which he unjustly detains from him, for this, to wit, that whereas the said *Anthony* on the 28th day of *May* in the 35th year of the reign of the Lord *Charles* the Second, late King of *England*, &c. at *London* aforesaid, to wit, in the parish of *St. Mary le Bow* in the ward of *Cheape*, by his certain writing obligatory sealed with the seal of the said *Anthony*, and to the court of the now Lord the King here shewn, the date whereof is the same day and year, acknowledged himself to be held and firmly bound to the said *Dorothy* in her life-time in the said 1400 *l.* to be paid to the same *Dorothy* when he should be thereto after required: Nevertheless the said *Anthony* the same 1400 *l.* altho' often required, &c. to the said *Dorothy* in her life-time, or to the said *John* after the death of the said *Dorothy*, or to either of them, hath not yet paid, but the said *Anthony* the same 1400 *l.* to the same *Dorothy* in her life-time, and to the said *John* after the death of the said *Dorothy*, hath hitherto altogether denied to pay, and the same to the said *John* doth yet deny to pay, to the damage of the said *John* 20 *l.* And therefore he produces the suit, &c. And the same *John* produces here in court the letters testamentary of the said *Dorothy*, whereby it sufficiently appears to the court here that the said *John* is executor of the will of the said *Dorothy* aforesaid, and thereof hath the administration, &c.

*Moore against Rowe.*Debt on bond
brought by an
administrator.

London, to wit. ROBERT Moore, Esq; administrator of the goods and chattels, rights and credits, which belonged to *Anne Browne*, otherwise *Newton* deceased, at the time of her death, who died intestate, complains of *Anthony Rowe* of the parish of *St. Martin in the Fields*, otherwise called, &c. in the custody of the marshal, &c. in a plea that he render to him 1000 *l.* of lawful money of *England*, which he unjustly detains from him, for this, to wit, that whereas the said *Anthony* on the 27th day of *November* in the 34th year of the reign of the Lord *Charles* the Second, late King of *England*, &c. at *London* aforesaid, to wit, in the parish of *St. Sepulchre* in the ward of *Farringdon Without*, by his certain writing

writing obligatory sealed with the seal of the said *Anthony*, and to the court of the Lord the now King here shewn, the date whereof is the day and year abovesaid, acknowledged himself to be held and firmly bound to the said *Anne*, by the name of *Anne Newton of London*, widow, in the said 1000 *l.* to be paid to the said *Anne* when he should be thereto after required: Nevertheless the said *Anthony*, altho' often required, &c. the said 1000 *l.* to the said *Anne* in her life-time, or to the same *Robert* after the death of the said *Anne*, (to which said *Robert* administration of the goods and chattels, rights and credits, which belonged to the same *Anne* at the time of her death, after the death of the said *Anne*, to wit, on the last day of *January* in the year of the Lord 1695, by *Thomas* by divine providence Archbishop of *Canterbury*, primate and metropolitan of all *England*, to whom the commission of that administration did of right belong, was duly committed,) or to either of them, hath not yet paid, but the said *Anthony* the same 1000 *l.* to the said *Anne* in her life-time, and to the same *Robert* after the death of the said *Anne*, hath hitherto altogether denied to pay, and the said *Anthony* doth yet deny to pay them to the same *Robert*, to the damage of the said *Robert* 100 *l.* And therefore he produces the suit, &c. And the same *Robert* produces here in court the letters of administration aforesaid, which the commission of the administration aforesaid in form aforesaid testify, &c.

Clarke against Atton.

Midd^x, to wit. **J**OHN *Clarke* complains of *William Atton* a servant to *William Briggs*, Esq; being in the custody of the marshal of the *Marshalsea* of the court of the Lord the King before the King himself, executor of the last will and testament of *William Atton* his late father deceased, otherwise called *William Atton* of the town of *Buckingham* in the county of *Bucks*, draper, in a plea that he render to him 600 *l.* of lawful money of *England* which he unjustly detains from him, for this, to wit, that whereas the said *William Atton* the testator in his life-time, to wit, on the 12th day of *November* in the 27th year of the reign of the Lord *Charles* the Second, late King of *England*, &c. at *Westminster* in the county aforesaid, by his certain writing obligatory sealed with the seal of the said *William Atton* the testator in his life-time, and to the court of the said Lord the now King here shewn, the date whereof is the same day and year, acknowledged himself to be held and firmly bound to the same *John Clarke*, and one *John Wilson*, Gent. now deceased, in the said 600 *l.* to be paid to the same *John Clarke* and *John Wilson* when he should be thereto after required: Nevertheless the said *William Atton* the testator in his life-time, and the said *William Atton* the now defendant, after the death of the said *William Atton* the testator, altho' often required, &c. the said 600 *l.* to the same *John Clarke* and *John Wilson*, or either of them, in the life-time of the said *John Wilson*, or to the same *John Clarke* after the death of the said *John Wilson*, have not paid, nor hath either of them paid, but have refused to pay them the same, and the said *William Atton* the executor doth yet refuse to pay the same to the said *John Clarke*, to the damage of the said *John Clarke* 40 *l.* And therefore he produces the suit, &c.

Drury and Dayley against Monger.

London, to wit. **J**OHN *Drury* and *Timothy Dayley*, executors of the last will and testament of *Elizabeth Hickey* deceased, who was executrix of the last will and testament of *Matthew Hickey* also deceased, complain of *Richard Monger*, administrator of all and singular the goods and chattels, rights and credits, which belonged to *Peter Monger* lately deceased, otherwise called *Peter Monger* of the parish of *St. Buttolph* without *Aldgate* in the county of *Middlesex*, brewer, in the custody of the marshal, &c. in a plea that he render to them 200 *l.* of lawful money of *Great Britain* which he unjustly detains from them, &c. for this, to wit, that whereas the said *Peter Monger* in his life-time, to wit, on the 22d day of *January* in the year, &c. at, &c. by his certain writing obligatory sealed with the seal of the said *Peter* in his life-time, and to the court of the said Lord the now King here shewn, the date whereof is the same day and year, acknowledged himself to be held and firmly bound to the said *Matthew Hickey* in his life-time in the said 200 *l.* to be paid to the said *Matthew*, his executors or assigns, when he should be thereto after required: Nevertheless the said *Peter Monger* in his life-time, or the said *Richard* after the death of the said *Peter*, altho' often required, &c. the said 200 *l.* to the said *Matthew* in his life-time, or to the said *Elizabeth* in her life-time after the death of the said *Matthew*, or to the same *John* and *Timothy*, or either of them, after the death of the said *Elizabeth*, have not paid, but have denied to pay the same to them, or either of them, and the said *Richard* doth yet deny to pay to, and unjustly detains the same from, the said *John* and *Timothy*; whereby they say they are prejudiced, and have damage to the value of 20 *l.* And therefore they produce the suit, &c. And the same *John* and *Timothy* produce here in court as well the letters testamentary of the said *Matthew* aforesaid, whereby it sufficiently appears to the court here

that the said *Elizabeth* was executrix of the will of the said *Matthew* aforesaid, and thereof had the administration, &c. as the letters testamentary of the said *Elizabeth* aforesaid; whereby it sufficiently appears to the court here that they the said *John* and *Timothy* are executors of the will of the said *Elizabeth* aforesaid, and thereof have the administration, &c.

Lysons against Stapley, widow.

Debt on bond
against an ex-
ecutrix.

London, to wit. **G** *George Lysons*, Gent. complains of the Lady *Mary Stapley*, widow, executrix of the last will and testament of *John Stapley*, Knt. and Bart. her late husband deceased, otherwise called *John Stapley of Briell* in the county of *Sussex*, Knt. and Bart. being in the custody of the marshal of the *Marshalsea* of the Lady the Queen before the Queen herself, in a plea that she render to him 200 *l.* of lawful money of *England*, which she unjustly detains from him, for this, to wit, that whereas the said *John* in his life-time, to wit, on the 29th day of *October* in the year of the Lord 1689, at *London*, to wit, in the parish of *St. Mary le Bow* in the ward of *Cheape*, by his certain writing obligatory sealed with the seal of the said *John*, and to the court of the said Lady the Queen here shewn, the date whereof is the same day and year, acknowledged himself to be held and firmly bound to the said *George* in the said 200 *l.* to be paid to the same *George* when he should be thereto required: Nevertheless the said *John* in his life-time, and the said *Mary* after the death of the said *John*, the said 200 *l.* altho' often required, &c. have not, nor hath either of them paid to the said *George*, but have hitherto altogether denied, and the said *Mary* doth yet deny to pay him the same, and unjustly detains them, to the damage of the said *George* 100 *l.* And therefore he produces the suit, &c.

Plea, Not the
deed of the
testator.

When, &c. and says, that she ought not to be charged with the debt aforesaid by virtue of the writing aforesaid, because she says, that the writing aforesaid is not the deed of the said *John Stapley*, Knt. and Bart. And of this she puts herself upon the country, and the said *George* likewise: Therefore let a jury thereon come before the Lady the Queen at *Westminster* on day next after and who neither, &c. to recognize, &c. The same day is given to the parties aforesaid there, &c.

Terrey and Duwall.

Debt by an
administrator
de bonis non
on a bond
made by a
feme sole to
the testator.

London, to wit. **W** *William Terrey*, administrator of the goods and chattels which belonged to *William Kirwood* by *Anne Terrey*, otherwise *Kirwood* deceased, late executrix of the will of *William Kirwood* unadministred, complains of *John Duwall* and *Elizabeth* his wife, otherwise lately called the most Noble *Elizabeth Viscountess Purbeck Deffring* in the county of *Norfolk*, widow, in the custody of the marshal, &c. in a plea that they render to him 140 *l.* which they unjustly detain from him, for this, to wit, that whereas the said *Elizabeth* while she was sole, to wit, on the 20th day of *October* in the 27th year of the reign of the Lord *Charles the Second*, late King of *England*, &c. at *London*, to wit, in the parish of *St. Mary le Bow* in the ward of *Cheape*, by her certain writing obligatory sealed with the seal of the said *Elizabeth*, and to the court of the Lord and Lady the now King and Queen here shewn, the date whereof is the same day and year, acknowledged herself to be held and firmly bound to the same *William Kirwood* in his life-time in the said 140 *l.* to be paid to the same *William Kirwood*, his executors, administrators and assigns, when she should be thereto required: Nevertheless the said *Elizabeth* while she was sole, altho' often required, &c. the said 140 *l.* to the same *William Kirwood* in his life-time, or to the same *Anne* after the death of the said *William Kirwood*, while she was sole, did not pay; and the said *John* and *Elizabeth*, after the espousals between them celebrated, to the same *Anne* while she was sole, or to the same *Anne* and *William Terrey* after the espousals between them were celebrated, or to the same *William Terrey* after the death of the said *Anne* (to which said *Will. Terrey* administration of all and singular the goods and chattels, which belonged to the said *Will. Kirwood* at the time of his death unadministred by the said *Anne*, by *John* by divine providence Archbishop of *Canterbury*, primate and metropolitan of all *England*, on the 2d day of the month of *December* in the year of the Lord 1692, at *London* aforesaid in the parish and ward aforesaid was duly committed) have not paid, but the said *Elizabeth* while she was sole them to the same *Will. Kirwood* in his life-time, or to the same *Anne* after the death of the said *Will. Kirwood* while she was sole, and the said *John* and *Elizabeth* after the espousals between them as aforesaid were celebrated, them to the same *Anne* while she was sole, or to the same *Will. Terrey* and *Anne* after the espousals between them likewise as aforesaid were celebrated, have refused to pay, and them to the same *Will. Terrey* after the death of the said *Anne*, and after the commitment of the administration aforesaid in form aforesaid, do yet refuse to pay, and unjustly detain, in delay of the faithful administration aforesaid, and to the damage of the said *William Terrey* 20 *l.* And therefore he produces

Cases in Parl.
15. where in
this case more
costs were
given than the
penalty was.

Administra-
tion granted
by the Arch-
bishop of *Can-
terbury*.

produces the suit, &c. And he produces here in court the letters of administration of the said Archbishop, which the commitment of the administration aforesaid in form aforesaid testify, &c.

Wilkinson and Weale.

Midd^s, to wit. **E** *Lizabetb Wilkinson*, widow, administratrix of all and singular the goods and chattels, rights and credits which belonged to *Christopher Wilkinson* her late husband deceased, complains of *Samuel Weale*, Gent. otherwise called *Samuel Weale* of *Landreth* in the county of *Cornwall*, Gent. otherwise called *Samuel Weale* of *St. Dunstan in the West, London*, Gent. otherwise called *Samuel Weale* of the parish of *St. Dunstan in the West, London*, Gent. in the custody of the marshal, &c. in a plea that he render to her 90*l.* of lawful money of *England*, which he unjustly detains from her, for this, to wit, that whereas the said *Samuel* on the 16th day of *December* 1690, at *Westminster* in the county aforesaid, by his certain writing obligatory sealed with the seal of the said *S.* and to the court of the Lord the now King here shewn, the date whereof is the same day and year; acknowledged himself to be held and firmly bound to the said *C.W.* in his life-time in 20*l.* parcel of the said 90*l.* to be paid to the said *C.* when he should be thereto after required: And whereas also the said *S.* afterwards, to wit, on the 29th day of *September* 1690 above-said, at *Westminster* aforesaid in the county aforesaid, by his certain other writing obligatory sealed also with the seal of the said *S.* and to the court of the said Lord the now King here likewise shewn, the date whereof is the same day and year, acknowledged himself to be held and firmly bound to the said *C.W.* in his life-time in other 20*l.* other part of the said 90*l.* to be paid likewise to the said *C.* when he should be thereto after required: And whereas also the said *S.* afterwards, to wit, on the said 29th day of *September* in the year last above-said, at *Westminster* aforesaid in the county aforesaid, by his certain other writing obligatory sealed also with the seal of the said *S.* and to the court of the said Lord the now King here likewise shewn, the date whereof is the same day and year, acknowledged himself to be held and firmly bound to the said *C.W.* in his life-time in other 20*l.* of the said 90*l.* other parcel, to be paid likewise to the same *C.* when he should be thereto after required: And whereas also the same *S.* afterwards, to wit, the same day, year and place last above-said, by his certain other writing obligatory, sealed also with the seal of the said *S.* and to the court of the said Lord the now King here also shewn, the date whereof is the same day and year, acknowledged himself to be held and firmly bound to the said *C.* in his life-time in other 20*l.* of the said 90*l.* other parcel, to be paid likewise to the same *C.* when he should be thereto after required: And whereas also the same *S.* afterwards, to wit, the same day, year and place last above-said, by his certain other writing obligatory, sealed also with the seal of the said *S.* and to the court of the said Lord the now King here also shewn, the date whereof is the same day and year, acknowledged himself to be held and firmly bound to the said *C.* in his life-time in 10*l.* residue of the said 90*l.* to be paid likewise to the said *C.* when he should be thereto after required: Nevertheless the said *S.* although often required, &c. the said 90*l.* to the same *C.* in his life-time, nor to the said *E.* after the death of the said *C.* (to which said *E.* administration of all and singular the goods and chattels, rights and credits, which belonged to the said *C.* at the time of his death, by to whom the commission of the administration aforesaid did of right belong, on the day of in the year of the Lord at *Westminster* aforesaid in the county aforesaid was in due form of law committed,) hath not paid, but the said *S.* them to the said *C.* in his life-time, or to the said *E.* after the death of the said *C.* hath altogether denied to pay, and them to the same *E.* doth yet deny to pay and unjustly detains, to the damage of the said *E.* 40*l.* And therefore she produces the suit, &c. And she produces here in court the letters of administration aforesaid, which the commission of administration aforesaid in form aforesaid testify, the date whereof is the day and year above-said, &c.

Debt on several bonds by an administratrix.

Pettyward against Kent and another.

Midd^s, to wit. **M** *MARY Pettyward*, widow, complains of *John Kent*, Esq; and *Nicholas Fenn*, Gent. executors of the last will and testament of *Richard Kent*, Esq; otherwise called *Richard Kent* of *London*, Esq; in the custody of the marshal, &c. in a plea that they render to her 200*l.* of lawful money of *England*, which they unjustly detain from her, for this, to wit, that whereas the said *Richard* in his life-time, to wit, on the twelfth day of *October* in the year of the Lord 1686, at *Westminster* in the county of *Middlesex* aforesaid, by his certain writing obligatory, sealed with the seal of the said *Richard* in his life-time, and to the court of the said Lord the now King here shewn, the date whereof is the same day and year, acknowledged himself to be held and firmly bound to the said *Mary* in the said 200*l.*

Debt on bond against two executors.

200 *l.* to be paid to the same *Mary* when he should be thereto after required: Nevertheless the said *Richard* in his life-time, and the said *John* and *Nicholas*, or either of them after the death of the said *Richard*, altho' often required, &c. the said 200 *l.* to the same *Mary* have not yet paid, nor hath either of them paid, but the said *Richard* in his life-time them to the said *Mary* altogether refused to pay, and the said *John* and *Nicholas* after the death of the said *Richard* them to the same *Mary* do yet refuse to pay and unjustly detain, to the damage of the said *Mary* 20 *l.* And therefore she produces the suit, &c.

Nowell against Batchellor.

Debt on the statute for preventing gaming. 9 A. C. — *Midd', to wit.* **W**illiam Nowell complains of *Thomas Batchellor* in the custody of the marshal, &c. in a plea that he render to him 16 *l.* of lawful money of Great Britain which he owes him and unjustly detains, for this, to wit, that whereas the said *Thomas Batchellor* on the 26th day of *May* in the 12th year of the reign of our Lady *Anne*, now Queen of Great Britain, &c. at *Westminster* in the county aforesaid, was indebted to the same *William* in the said 16 *l.* for so much money by the said *Thomas Batchellor* to the use of the said *William Nowell* after the first day of *May* in the year of the Lord 1711 had and received; whereby an action accrued to the said *William Nowell* to demand and have of the said *Thomas Batchellor* the said 16 *l.* according to the form of the statute made and provided in a Parliament of the said Lady the now Queen, held at *Westminster* in the county of *Middlesex* on the 25th day of *November* in the year of the Lord 1710, intituled, *An Act for the better preventing of excessive and deceitful gaming*: Nevertheless the said *Thomas*, altho' often required, the same 16 *l.* to the same *William Nowell* hath not yet paid, but them to him hitherto hath denied, and yet doth deny to pay; whereby he says that he is prejudiced, and hath damage to the value of 20 *l.* And therefore he produces the suit, &c.

Not indebted pleaded, and the plaintiff recovered a verdict, and the money was paid him thereon.

Curson against Faunt.

Debt for rent on a lease. *Leicester, to wit.* **N**athaniel Curson, Bart. complains of *William Faunt*, Esq; being in the custody of the marshal of the *Marshalsea* of the Lord and Lady the King and Queen before the King and Queen themselves, in a plea that he render to him 280 *l.* of lawful money of England which he owes him and unjustly detains, for this, to wit, that whereas the said *Nathaniel* on the 24th day of *March* in the fourth year of the reign of the Lord *James* the Second, late King of England, &c. at *Feston* in the county aforesaid, had demised, granted and to farm let, to the said *William* the several closes or parcels of land of him the said *Nathaniel* following, to wit, the *West Meadow* at the mill-tail, the *Mills Close*, otherwise *Miles Close*, the *Hall Close*, the *Red Field*, the *Lilly Close*, the *Gate Close*, the *Warren*, the *Furzy Close*, the *Middle Close*, and the *Highbway Close*, lying and being in *Feston* aforesaid in the county aforesaid; To have and to hold the several closes and parcels of land aforesaid with the appurtenances to the said *William* and his assigns, from the said 24th day of *March* in the 4th year aforesaid unto the end and term of one whole year from thence next ensuing and fully to be compleat and ended: Yielding and paying therefore to the said *Nathaniel* and his assigns the rent or sum of 280 *l.* of lawful money of England: By virtue of which said demise the same *William* into the tenements aforesaid with the appurtenances entred, and was thereof possessed, and the same tenements with the appurtenances had held and occupied; and the said 280 *l.* for the year aforesaid, ended at the feast of the Annunciation of the Blessed Virgin *Mary* in the first year of the reign of the Lord and Lady *William* and *Mary*, now King and Queen of England, &c. were in arrear and are yet unpaid; whereby an action accrued to the same *Nathaniel* to demand and have of the said *William* the said 280 *l.* Yet the said *William*, altho' often required, &c. the said 280 *l.* to the said *Nathaniel* hath not yet paid, but hath hitherto altogether denied, and yet doth deny to pay him the same, to the damage of the said *Nathaniel* 100 *l.* And therefore he produces the suit, &c.

Had nothing in the tenements. 3 Lev. 193, 146. Town. Tab. 149. 2 Ven. 251. Pract. Reg. 214. When, &c. and says, that the said *Nathaniel* at the time of the demise aforesaid in the declaration aforesaid mentioned had nothing in the tenements aforesaid whereof he could make the demise aforesaid: And this the same *William* is ready to verify: Wherefore he prays judgment if the said *Nathaniel* ought to have or maintain his action aforesaid thereof against him, &c.

And the said *Nathaniel* says, that he by any thing by the said *William* above in pleading alleged ought not to be precluded from his action aforesaid thereof against him had, because he says that otherwise, to wit, in *Michaelmas* term in the 32d year of the reign of the Lord *Charles* the Second, late King of *England*, &c. one *John Curson*, Knt. and Bart. deceased, in his life-time, in the court of the Common Bench at *Westminster* before *Francis North*, Knt. and his companions, then justices of the said late King of the Bench aforesaid, at *Westminster* in the county of *Middlesex*, by the consideration of the same court recovered against *George Faunt*, Esq; by the name of *George Faunt* of *Feston* in the county of *Leicester*, Esq; as well a certain debt of 2000*l.* as 40*s.* which to the same *J. C.* in the same court of the Common Bench were then adjudged for his damages which he had as well by reason of the detention of that debt as for his costs and charges by him about his suit in that behalf expended, whereof the same *George* is convicted, as by the record and proceedings thereof in the same court of the Common Bench at *Westminster* aforesaid remaining of record is more fully manifest and appears; which said judgment had and obtained was for a true and just debt to the said *J. C.* from the said *G. F.* due, and being then and yet not paid or satisfied; and the same judgment in form aforesaid had and obtained doth still remain in its full force and effect, not reversed, annulled or satisfied: And the same *N.* doth farther in fact say, that the said *J. C.* in his life-time, afterwards, to wit, on the 28th day of *November* in that same term, came into the court of the Common Bench aforesaid at *Westminster* aforesaid, by *John Downes* his attorney, and by the statute in such case made and provided chose to be delivered to him all the goods and chattels of the said *G.* except his oxen and beasts of his plow, and likewise the one half of his land and tenements, to detain to himself the goods and chattels aforesaid as his own proper goods and chattels, and also to hold the said half as his freehold to himself and his assigns, according to the form of the statute aforesaid, until the debt and damages aforesaid should be thereof levied: And he prayed the writ of the Lord *Charles* the Second, late King of *England*, &c. to be directed to the sheriff of the county of *Leicester*; and it was granted him, returnable in the same court of the Common Bench at *Westminster* in the Octave of *St. Hillary*, &c. On which day the said *J. C.* came into the same court by his attorney aforesaid: And the sheriff did nothing therein, nor returned the writ: Therefore, as before, another writ was made to him thereof in form aforesaid, returnable in the same court on the morrow of the Holy *Trinity*, &c. On which day the said *J. C.* came into the same court by his attorney aforesaid: And the sheriff, to wit, *Jeremiah Dove*, Esq; then returned there a certain inquisition, taken before him at *Billesdon* in the county of *Leicester* aforesaid on the 30th day of *May* then last past, by the oath of 12, &c. by which it was found, that the said *G.* on the day of the caption of the inquisition aforesaid was seised in his demean as of fee of and in one close of pasture with the appurtenances in *Feston* in the county of *Leicester* aforesaid, called *Mills Close*, containing by estimation eight acres or thereabouts, then or late in the tenure or occupation of the said *G. F.* or his assigns, of the clear yearly value in all issues beyond reprises of 60*s.* And of and in one other close of pasture with the appurtenances in *Feston* aforesaid in the county of *Leicester* aforesaid, called *Hall Close*, containing by estimation eighteen acres or thereabouts, then or late in the tenure or occupation of the said *G. F.* or his assigns, of the clear yearly value in all issues beyond reprises of 10*l.* And of and in one other close of pasture with the appurtenances in *Feston* aforesaid in the county aforesaid, called *Redfield*, containing by estimation 140 acres or thereabouts, then or late in the possession of the said *G. F.* or his assigns, of the clear yearly value in all issues beyond reprises of 40*l.* And of and in one other close of pasture with the appurtenances in *Feston* aforesaid in the county aforesaid, called *Kilby Close*, containing by estimation 68 acres of land or thereabouts, then or late in the tenure or occupation of the said *G. F.* or his assigns, of the clear yearly value in all issues beyond reprises of 30*l.* (So on reciting all the several particulars): And that the said close called *Mills Close* in *Feston* aforesaid in the county aforesaid, the said close called *Halls Close*, the said close called *Redfield*, the said close called *Kilby*, the said close called the *Gate Close*, the said close called the *Warren*, the said close called the *Furzy Close*, the said close called *Middle Close*, the said close called *Highbway Close*, the said close called *West Meadow* at the mill-tail, being all in the occupation of the said *G. F.* or his assigns, and lying and being in *Feston* aforesaid in the county of *Leicester* aforesaid, are one just and equal half of the messuages, lands and tenements aforesaid; which said half the said sheriff on the day of the caption of the inquisition aforesaid, by virtue of the writ aforesaid so as aforesaid to him directed, caused to be delivered to the said *J. C.* Bart. to hold to him and his assigns as his freehold until his debt and damages aforesaid should be fully levied, as he was by that writ commanded: And the same *N.* farther says, that the several closes and parcels of land last mentioned, to wit, the *Mills Close*, the *Hall Close*, the *Redfield*, the *Kilby Close*, the *Gate Close*, the *Warren*, the *Furzy Close*, *Middle Close*, *Highbway Close*, the *West Close* at the mill-tail, are the same closes in the declaration aforesaid above-mentioned

Repl. that plaintiff's father recovered judgment against *G. F.* for 2000*l.* in C. B.

13 E. 1. c. 18.

Elegit sued out.

Inquisition returned.

G. F. seised in fee of, &c.

The premises delivered are an equal moiety.

and the same as in the declaration.

Tenant by
Elegit made
plaintiff exe-
cutor and died,

who entered,

That the debt
is not paid,
and so, &c.

Rejoinder,
that before
the Judgment
recovered *W.*
and *B.* reco-
vered a judg-
ment in the
Exchequer a-
gainst defen-
dant's ance-
stor for 6000*l.*
and sued out
an *Elegit*.

Confesses the
action.

Elegit sued.

mentioned to be demised to the same *William*, into which said closes with the appurtenances the said *John Curson* in his life-time by virtue of the delivery aforesaid entered, and was there- of seised as of his freehold until, &c. and being so thereof seised the same *J. C.* afterwards, to wit, on the 1st day of *December* 1686, at *Leicester* in the county of *Leicester* aforesaid, made his last will and testament in writing, and by the same constituted and ordained him the said *Nathaniel Curson* executor of his will aforesaid, and afterwards there died so as aforesaid seised; after whose death the same *N.* the will of the said *J.* aforesaid in due form of law proved, and took upon himself the burden of the execution thereof; and the same *N.* into the closes aforesaid last mentioned with the appurtenances entered, and was seised thereof as of his free- hold until, &c. and that he had not levied the debt and damages aforesaid nor any part there- of at the time of the demise in the declaration aforesaid abovementioned, nor ever after hath levied: And so the same *N.* says that he, at the time of the demise in the declaration aforesaid abovementioned, had a good and sufficient estate in the tenements aforesaid with the appur- tenances, whereof he might make the demise aforesaid of the tenements aforesaid with the appurtenances aforesaid to the same *W.* And this he is ready to verify: Wherefore he prays judgment and his debt aforesaid, together with his damages by reason of the detention of that debt, to be adjudged to him, &c.

And the said *W.* says, that long before the recovery of the judgment aforesaid by him the said *J. C.* against him the said *George Faunt* in the replication of the said *N.* mentioned, to wit, in *Trinity* term in the 26th year of the reign of the Lord *Charles* the Second, late King of *England*, &c. *Wil. Bootbby*, Esq; and *Walter Ruding*, Esq; then debtors of the said Lord *Charles* the Second, then King of *England*, came into the court of the then said Lord King *Charles* the Second of his Exchequer at *Westminster* before the Barons of the same Exchequer on the 8th day of *July* in the same term by *Thomas Haynes* their then attorney, and then com- plained by bill against the said *G. F.* by the name of *G. F.* Esq; present then in court the same day, in a plea that he should render them 6000*l.* which he owed them and unjustly de- tained, for this, to wit, that whereas the said *G. F.* on the last day of *May* in the 26th year of the reign of the said Lord the late King, at *London*, to wit, in the parish of *St. Mary le Bow* in the ward of *Cheape*, had borrowed of the said *Wil. Bootbby* and *Wal. Ruding* the said 6000*l.* to be paid to the same *Wil. Bootbby* and *Wal. Ruding* when he should be thereto after required: Nevertheless the said *G. F.* altho' often required, &c. the said 6000*l.* to the said *Wil. Bootbby* and *Wal. Ruding* had not then paid, but the same to them or either of them had denied, and then did deny to pay; whereby the same *Wil. Bootbby* and *Wal. Ruding* then said that they were prejudiced, and had damage to the value of 100*l.* whereby the same *Wil. Bootbby* and *Wal. Ruding* were the less able to satisfy the said then Lord the King the debts which they owed to the same then Lord the King at his said Exchequer, as they said: And therefore they produced the suit, &c. And they then found pledges to prosecute, *John Dee* and *Richard Roe*: And the said *G. F.* by *Richard Hogden* then his attorney came and defend- ed the force and injury when, &c. and then prayed oyer of the bill aforesaid; and to him it was read, &c. Which being read and heard, the same *G.* then said that he could not deny the action of the said *Wil. Bootbby* and *Wal. Ruding* aforesaid, nor but that he owed to the said *Wil. Bootbby* and *Wal. Ruding* the said 6000*l.* in manner and form as the said *Wil. Bootbby* and *Wal. Ruding* by their declaration aforesaid against him did then declare: It was therefore then considered by the Barons there, that the said *Wil. Bootbby* and *Wal. Ruding* should recover against the said *G. F.* their debt aforesaid, as also their damages by reason of the detention of that debt to 30*s.* to the same *Wil. Bootbby* and *Wal. Ruding* by the same court then there with their assent adjudged: And that the said *G. F.* should be in mercy, &c. as by the records and proceedings thereof in the said court of the said late King of Exchequer at *Westminster* remaining more fully appears; which said judgment in form aforesaid had and obtained was for a true and just debt to the said *Wil. Bootbby* and *Wal. Ruding* from the said *G. F.* due, then and yet not paid or satisfied; and the same judgment yet remains in its full force and effect, not reversed, annulled or satisfied: And the same *Wil. Bootbby* and *Wal. Ruding* said, that they the said *Wil. Bootbby* and *Wal. Ruding* afterwards came into the said court of the said late King of the Exchequer, and by the statute in such case provided chose to be delivered to them all the goods and chattels of the said *G.* except his oxen and beasts of his plough, and likewise the one half of the lands and tenements of the said *G.* in his baili- wick, to detain to himself the goods and chattels aforesaid as his own proper goods and chattels, and also to hold the one half aforesaid as his freehold to him and his assigns, according to the form of the statute aforesaid, until they should thereout levy the debt and damages aforesaid: Whereupon afterwards, to wit, on the 29th day of *November* in *Michaelmas* term in the 27th year of the reign of the said Lord *Charles* the Second, late King of *England*, &c. by writ of the said late Lord the King of *Elegit* of and upon the said judgment prosecuted, directed to the same then sheriff of the county of *Leicester*, the said then sheriff of the county of *Leicester* was commanded that all the goods and chattels of the said *G.* except his oxen and the beasts of his plough, and likewise the one half of the land and tenements in his bailiwick, of which the

the same *George* on the morrow of the Holy *Trinity* in the 26th year of the reign of the said late King of *England*, &c. on which day the judgment aforesaid was given, or ever after was seised, he should without delay cause to be delivered to the said *William Bootbby* and *Walter Ruding* by a reasonable price and extent, to detain to themselves the goods and chattels aforesaid as their own proper goods and chattels, and also to hold the one half aforesaid as their freehold to them and their assigns, according to the form of the statute aforesaid, until they should thereout levy the debt and damages aforesaid; and in what manner the said writ was executed, the same sheriff was commanded to return to the barons of the Exchequer aforesaid at *Westminster* in the Octave of the Purification of the Blessed Virgin *Mary* then next following, under his seal and the seals of them by whose oath that extent and appraisement should be made, together with the names of those by whose oaths the said extent and appraisement should be made, and the said writ: On which day the said *William Bootbby* and *Walter Ruding* came into the same court in their proper persons, and the sheriff, to wit, *William Cole*, Esq; then sheriff of the county of *Leicester* aforesaid returned, that the said *George Faunt* had no goods or chattels in his bailiwick whereby he could levy the debt aforesaid, or any penny thereof; and farther returned on the writ aforesaid a certain inquisition taken before him at the borough of *Leicester* in the county of *Leicester* aforesaid on the third day of *February* in the 28th year of the reign of the said Lord the late King *Charles* the Second, by the oaths of *Edward Briddle*, *Thomas Hadden*, &c. (reciting all the jury) good and lawful men of his county, who being sworn and charged upon their oaths aforesaid said, that the said *George Faunt*, Esq; in the writ aforesaid named, at the time of giving the judgment aforesaid in the said writ specified, to wit, on the morrow of the Holy *Trinity* in the 26th year of *Charles* the Second, late King of *England*, &c. was seised, and then was seised in his demesne as of fee of and in a capital messuage with the appurtenances, situate, lying and being in *Feston* in the county aforesaid, then in the tenure or occupation of the said *George Faunt*, or his assigns, of the clear yearly value in all issues beyond reprises of 10*s.* and of and in a close of pasture with the appurtenances in *Feston* aforesaid in the county aforesaid, called *Mills Close*, containing by estimation, &c. (so on reciting the particulars of all the lands in the same manner): Which said capital messuage with the appurtenances, the said close called *Barne-yard*, the said close called *Mills Close*, the said close called *Halls Close*, the said close called *Redfield*, the said close called *Kilby Close*, the said close called *Gate Close*, the said close called the *Warren*, the said close called *Furzy Close*, (with some others recited) with all and singular their appurtenances, are one equal half of all and singular the messuages, lands and tenements aforesaid; which said moiety he the said sheriff on the day of the caption of the inquisition aforesaid, by virtue of the writ aforesaid, had caused to be delivered to the said *William Bootbby* and *Walter Ruding* in the said writ mentioned, to hold to them and their assigns as their freehold until the debt and damages in the said writ named should be thereout fully levied, as he was commanded by the said writ: And the same *William* farther says, that the said sheriff farther returned, that the jury aforesaid on their oaths aforesaid farther said, that the said *George Faunt* in the writ aforesaid mentioned had not, nor on the day of the caption of the inquisition aforesaid, and giving of the judgment aforesaid, or ever after, had any other or more messuages, lands or tenements, or any goods or chattels in his bailiwick, to the knowledge of the jury aforesaid, or by any evidence to them shewn, as by the writ aforesaid, and the return of the inquisition aforesaid, in the said court of the said late Lord King *Charles* the Second of Exchequer of record filed, is more fully manifest and appears: And the said *William Faunt* farther says, that the several closes and parcels of land, to wit, the *Mills Close*, the *Hall Close*, the *Redfield*, the *Kilby Close*, the *Gate Close*, the *Warren*, the *Furzy Close*, the *Highway Close*, the *West Meadow* at the bridge, the *West Meadow* at the end of the *Middle Close*, parcel of the closes and tenements in the inquisition aforesaid mentioned, and by the said sheriff of the county of *Leicester* to the said *William Bootbby* and *Walter Ruding* by the same inquisition delivered, to hold to them and their assigns until they shall fully levy the debt and damages aforesaid to them due, and the closes in the declaration mentioned to be demised by the said *Nathaniel* to the said *William Faunt*, are one and the same closes, and not other nor divers; into which closes with the appurtenances the said *William Bootbby* and *Walter Ruding*, by virtue of the delivery aforesaid, before the demise in the declaration aforesaid mentioned to be made by the said *Nathaniel* to the said *William Faunt*, entered, and were thereof seised as of their freehold until, &c. and being so thereof seised the said *Walter Ruding*, afterwards, to wit, on the first day of *February* in the year of the Lord 1697, at *Feston* aforesaid in the county of *Leicester* aforesaid died, and he the said *William Bootbby* survived him, and kept himself in by the right of survivorship: And farther the said *William Faunt* says, that neither the said *William Bootbby* and *Walter Ruding*, or either of them, in the life-time of the said *Walter* levied, nor did either

The inquisition returned.

The defendant seised in fee of, &c.

Delivery of a moiety to the plaintiffs.

Death of one of the plaintiffs.

Their debt
not levied.

And so the
plaintiff had
no estate to
demise.

Surrejoinder,
that their
judgment was
by fraud, &c.

Rebutter,
that it was
for a just debt.

Surrebutter
maintains his
surrejoinder.

of them levy the debt and damages aforesaid, nor hath the said *William Boothby* after the death of the said *Walter Ruding* hitherto levied the debt and damages aforesaid, but a great part thereof, to wit, the sum of 5000 *l.* and more is yet due to the said *William Boothby* not levied or satisfied; and so the said *W. F.* says, that the said *N.* at the time of the demise aforesaid in the declaration aforesaid above mentioned, had not a good and sufficient estate in the tenements aforesaid with the appurtenances whereof he could make the demise aforesaid of the tenements aforesaid with the appurtenances to the said *W. F.* And this the same *W. F.* is ready to verify: Wherefore the same *W. F.* as before prays judgment if the said *N.* ought to have or maintain his action aforesaid against him, &c.

And the said *N.* says, that the judgment aforesaid, by the said *William Boothby* and *Walter Ruding* against the said *G. F.* in form aforesaid had and obtained, was had and obtained by fraud and covin between the said *Will. Boothby* and *Walter Ruding* and the said *G. F.* at *Foston* aforesaid in the county of *Leicester* aforesaid then first had, to defraud the said *N.* and other creditors of the said *G.* of their true and just debts: And this he is ready to verify: Wherefore as before he prays judgment and his debt aforesaid, together with his damages by reason of the detention of that debt, to be adjudged to him, &c.

And the said *William* says, that the judgment aforesaid, by the said *William Boothby* and *Walter Ruding* against the said *G. F.* in form aforesaid had and obtained, was had and obtained for a true and just debt to the same *William Boothby* and *Walter Ruding* from the said *G. F.* due; without that, that the judgment aforesaid, by the said *William Boothby* and *Walter Ruding* against the said *G. F.* in form aforesaid had and obtained, was had and obtained by fraud and covin between the said *William Boothby* and *Walter Ruding* and the said *G. F.* first had, to defraud the said *N.* and other creditors of the said *G.* of their true and just debts in manner and form as the said *N.* hath above thereof in surrejoining pleaded: And this he is ready to verify: Wherefore as before he prays judgment, and that the said *N.* may be precluded from his action aforesaid thereof against the said *William* had, &c.

And the said *N.* as before says, that the judgment aforesaid, by the said *William Boothby* and *Walter Ruding* against the said *G. F.* in form aforesaid had and obtained, was had and obtained by fraud and covin between the said *William Boothby* and *Walter Ruding* and the said *G. F.* first had, to defraud the said *N.* and other creditors of the said *G. F.* of their true and just debts in manner and form as the said *N.* above in surrejoining hath pleaded, to wit, at *Foston* aforesaid in the county of *Leicester* aforesaid: And this he prays may be inquired of by the country: And the said *W. F.* thereof likewise, &c. Therefore let a jury thereon come before the Lord and Lady the King and Queen at *Westminster* on _____ day next after _____ and who neither, &c. to recognize, &c. because as well, &c. The same day is given to the parties aforesaid there, &c.

Rebow, Knt. and his wife, against Plomer.

Debt on bond
made 1681,
sued 1718 by
an executor
against the
heir and de-
visee of the
obligor.

Middlesex, to wit. **I** SAAC *Rebow*, Knt. and *Elizabeth* his wife, executrix of the last will and testament of *John Lemott Honywood*, Esq; deceased, complain of *George Plomer*, son and heir of *Sarah Plomer* widow deceased, who was heir and devisee of *Will. Wilkinson*, Esq; deceased, otherwise called *Will. Wilkinson* of the *Inner Temple*, Esq; being in the custody of the marshal of the *Marshalsea* of the Lord the King before the King himself, in a plea that he render to them 400 *l.* of lawful money of *Great Britain* which he unjustly detains from them, for this, to wit, that whereas the said *William* in his life-time, to wit, on the 27th day of *February* in the year of the Lord 1681, at the parish of *St. Clement Danes* in the county of *Middlesex* aforesaid, by his certain writing obligatory sealed with the seal of the said *William*, and to the court of the said Lord the now King here shewn, the date whereof is the same day and year, acknowledged himself to be bound to the said *John Lemott Honywood* in his life-time in the said 400 *l.* to be paid to the same *John* when he should be thereto required, and well and faithfully to make the same payment he bound himself and his heirs by the same writing: Nevertheless the said *William* in his life-time, and the said *Sarah* who was heir and devisee of the said *William* after his death, and the said *George*, son and heir of the said *Sarah*, after the death of the said *Sarah*, altho' often required, &c. the said 400 *l.* to the said *John* in his life-time, or to the same *Isaac* and *Elizabeth* after the death of the said *John*, or to either of them, have not yet paid, nor hath any of them paid, but have altogether denied to pay the same to them, or any of them, and the said *George* doth yet deny to pay the same to the said *Isaac* and *Elizabeth*, and unjustly detains, to the damage of the said *Isaac* and *Elizabeth* 10 *l.* And therefore they produce the suit, &c. And the same *Isaac* and *Elizabeth* produce here in court the letters testamentary of the said *John*, whereby it sufficiently

ficiently appears to the court here, that the said *Elizabeth* it executrix of the last will and testament of the said *John*, and thereof hath the administration, &c.

When, &c. And prays *oyer* of the writing obligatory aforesaid; and to him it is read, *Oyer* of the condition. &c. he prays likewise *oyer* of the condition of the same writing; and to him it is read in these words, to wit, The condition of this obligation is such, that if the above-bounded *William Wilkinson* and *Priscella Honywood*, or either of them, their or either of their heirs, executors or administrators, do well and truly pay or cause to be paid unto the above-named *John Lemott Honywood*, his executors, administrators or assigns, the full sum of 212 l. of good and lawful money of *England*, on the first day of *March* which shall be in the year of our Lord 1682, then this obligation to be void, or else to remain in full force: Which being read and heard the said *George* says, that the said *Isaac* and *Elizabeth* ought not to have or maintain their action aforesaid thereof against him, because he says, that the said *William Wilkinson* in his life-time, after the said 1st day of *March* in the condition aforesaid mentioned, and before the exhibition of the bill aforesaid, to wit, on the 27th day of *February* in the year of the Lord 1692, paid to the said *John Lemott Honywood* 200 l. being the principal sum to the same *John Lemott Honywood* by the condition of the writing aforesaid due, together with the whole interest for the said 200 l. then due, to wit, at the parish of *St. Clement Danes* aforesaid in the county of *Middlesex* aforesaid: And this he is ready to verify: Wherefore he prays judgment if the said *Isaac* and *Elizabeth* ought to have or maintain their action aforesaid thereof against him, &c. Payment after the day pleaded.

And the said *Isaac* and *Elizabeth* say, that they by any thing before alledged ought not to be precluded from their action aforesaid against the said *George* had, because they say, that the said *William Wilkinson* in his life-time, after the said 1st day of *March* in the condition aforesaid mentioned, and before the exhibition of the bill aforesaid, did not pay to the said *John Lemott Honywood* the said 200 l. and the interest for the same due, as the said *George* above by pleading hath alledged: And this they pray may be inquired of by the country: And the said *George* thereof likewise: Therefore let a jury thereon come before the Lord the King at *Westminster* on day next after and who neither, &c. to recognize, &c. because as well, &c. The same day is given to the parties aforesaid there, &c. This is naught, because it ties down the evidence to that day.

The plaintiff recovered a verdict Mich. 5 Geo.

Wrench and Jaques.

Midd^s, to wit. **J**OHN *Wrench*, assignee of *R. B. Knt.* and *R. K. Knt.* sheriff of the county of *Middlesex* aforesaid, according to the form of the statute in such case thereof bail bond. lately made and provided, complains of *John Jaques*, otherwise, &c. in the custody of the marshal, &c. in a plea that he render to him 40 l. of lawful money of *Great Britain*, which he owes him and unjustly detains, for this, to wit, that whereas after the 1st day of *Trinity* term in the year of the Lord 1706, to wit, on the 20th day of *May* in the year of the Lord 1715, the said *John Wrench* prosecuted out of the court of the said Lord the King before the King himself (the same court then being at *Westminster* in the county aforesaid) a certain precept of the said Lord the King, commonly called a bill of *Middlesex*, to the sheriff of the county of *Middlesex* aforesaid directed, by which precept the said sheriff was commanded to take one *Peter Brittain* the younger, if he should be found in his bailiwick, and safely keep him, so that he might have his body before the said Lord the King at *Westminster* on *Monday* next after the morrow of the Ascension of the Lord, to answer to the said *John Wrench* in a plea of trespass, and also to the bill of the said *John Wrench* against the said *P. Brittain* for 20 l. debt, according to the custom of the court of the said Lord the King, before the King himself to be exhibited: Which said precept afterwards, and before the return of the same, to wit, on the said 20th day of *May* 1715 above said, at the parish of *St. Clement Danes* in the county of *Middlesex* aforesaid, to the said *R. B. Knt.* and *R. K. Knt.* being then sheriff of the county of *Middlesex* aforesaid, was delivered in due form of law to be executed: By virtue of which said precept to the sheriff of *Middlesex* aforesaid in form aforesaid directed, the said *R. B. Knt.* and *R. K. Knt.* being then as aforesaid sheriff of the county of *Middlesex* aforesaid, afterwards, to wit, on the said 20th day of *May* 1715 above said, took and arrested the said *Peter Brittain* at the parish aforesaid in the county aforesaid, and the said *Peter Brittain* then and there in his custody, by virtue of the precept aforesaid and that arrest, had detained and kept: And whereas the said *John Jaques* afterwards, to wit, on the 28th day of *May* 1715 above said, at the parish aforesaid in the county aforesaid, the said *Peter Brittain* being so as aforesaid taken, arrested, detained and kept, by the same sheriff of the county of *Middlesex* aforesaid, and then at the parish aforesaid in the county aforesaid, in the custody of the said sheriff by virtue of the precept aforesaid remaining, by his certain writing obligatory sealed with the seal of the said *John Jaques*, and to the court of the said Lord the King now here shewn, the date of which said writing

writing obligatory is the same 28th day of *May* in the year of the Lord 1715 above said, acknowledged himself to be held and firmly bound to the said *R. B. Knt.* and *R. K. Knt.* being then as aforesaid sheriff of the county aforesaid, by the name of *R. B. Knt.* and *R. K. Knt.* sheriff of the county aforesaid, in the said 40*l.* to be paid to the same sheriff or his certain attorney, executors, administrators or assigns, when he should be thereto after required; with a condition to the same writing obligatory subscribed, that if *P. Brittain* should appear before the said Lord the King at *Westminster* on the said *Monday* next after the morrow of the Ascension of the Lord, to answer to the said *John Wrench* in the plea aforesaid, and also to the bill as aforesaid for 20*l.* debt, then the writing obligatory aforesaid should be void and of no force, otherwise it should stand and remain in its full strength, force and effect: And whereas the said *P. Brittain* did not appear before the said Lord the King at *Westminster* on the said *Monday* next after the morrow of the Ascension of the Lord in the condition aforesaid mentioned, according to the form and effect of that condition, whereby the writing obligatory aforesaid became forfeited: And whereas afterwards, to wit, on the 11th day of *June* in the year of the Lord 1715 above said, at the parish aforesaid in the county aforesaid, at the request and costs of the said *John Wrench*, being a common person as aforesaid, the said *R. B. Knt.* and *R. K. Knt.* sheriff of the county of *Middlesex* aforesaid, by the name of *R. B. Knt.* and *R. K. Knt.* sheriff of the county aforesaid, assigned to the said *John Wrench* the writing obligatory aforesaid so for the appearance of the said *P. Brittain* as aforesaid made, by indorsing the assignment of the said sheriff of the writing obligatory aforesaid on that writing obligatory, and by then and there attesting the same assignment under the hand and seal of the said sheriff in the presence of two credible witnesses, according to the form of the statute in such case thereof lately made and provided; which said assignment (the date whereof is the same 11th day of *June* in the year of the Lord 1715 above said) is also to the said court of the said Lord the King now here shewn; by reason of which said premisses, according to the form of the statute in that behalf made and provided, an action accrued to the same *John Wrench*, as assignee of the said *R. B. Knt.* and *R. K. Knt.* sheriff of the said county of *Middlesex* as aforesaid, to demand and have of the said *John Jaques* the said 40*l.* Nevertheless the said *John Jaques*, altho' often required, &c. the said 40*l.* to the same *John Wrench* or to the same *R. B.* and *R. K.* or to any of them, hath not yet paid, but the same to the said *John Wrench* or the said *R. B.* and *R. K.* or any of them, hath hitherto altogether denied to pay, and doth yet deny to pay the same to the said *John Wrench*, to the damage of the said *John Wrench* 10*l.* And therefore he produces the suit, &c.

Condition to appear.

The bond forfeited:

Assigned to the plaintiff:

4 A. c. 16.
§. 20.

whereby an action accrued.

Bokenham and his wife against Manley.

Debt against an administratrix on a bond made by the intestate to the plaintiff's wife while sole.

London, to wit. **W**illiam Bokenham, Esq; and Frances his wife, lately called *Frances Manley*, spinster, complain of *Margaret Manley*, widow, administratrix of all and singular the goods and chattels, rights and credits, which belonged to *Thomas Manley*, Gent. her late husband deceased, otherwise lately called *Thomas Manley* of the parish of *St. Margaret* near the city of *Rocheſter* in the county of *Cambridge*, Gent. in the custody of the marshal, &c. in a plea that she render to them 120*l.* of lawful money of *England*, which she unjustly detains from them, for this, to wit, that whereas the said *Thomas* in his life-time, to wit, on the 22d day of *September* in the 3d year of the reign of the Lord *William* now King and the Lady *Mary* late Queen of *England*, &c. at *London* aforesaid, to wit, in the parish of *St. Mary le Bow* in the ward of *Cheape*, by his certain writing obligatory sealed with the seal of the said *Thomas* in his life-time, and to the court of the Lord King *William* the Third now here shewn, the date whereof is the same day and year, acknowledged himself to be held and firmly bound to the said *Frances* while she was sole, by the name of *Frances Manley* of the parish of *St. Margaret* aforesaid in the county aforesaid, spinster, in the said 120*l.* to be paid to the same *Frances* when he should be thereto required: Nevertheless the said *Thomas* in his life-time, or the said *Margaret* after the death of the said *Thomas*, (to which said *Margaret* administration of all and singular the goods and chattels, rights and credits which belonged to the said *Thomas* at the time of his death, who died intestate, &c. after the death of the said *Thomas*, was committed,) altho' often required, &c. the said 120*l.* to the said *Frances* while she was sole, or to the same *William* and *Frances* after the espousals between them celebrated, have not yet paid, nor hath either of them paid, but the same to the said *Frances* while she was sole, and to the said *William* and *Frances* after the espousals between them celebrated, have altogether denied to pay, and the said *Margaret* doth yet deny to pay them to the said *William* and *Frances*, and unjustly detains the same, to the damage of the said *William* and *Frances* 10*l.* And therefore they produce the suit, &c.

Salk. 36 to 40.

Astrie who as well, &c. against Fiffenden.

Suffex. to wit. **S**amuel Astrie, Gent. who sues as well for the Lord the King as for himself in Debt by an informer on the statute Car. 2. for not coming to church. 1 Bro. 91. Salk. 30, 373. this behalf, complains of Thomas Fiffenden the elder, being in the custody of the marshal of the *Marbalsea* of the Lord the King before the King himself, in a plea that he render to the said Lord the King and to the same Samuel, who as well, &c. 200*l.* of lawful money of England which he owes them and unjustly detains, for this, that the said Tho. Fiffenden on the 20th day of May in the 34th year of the reign of the Lord Charles the Second, now King of England, &c. being above the age of 16 years, and then and from thence continually after for the space of ten months then next following an inhabitant and commorant within this kingdom of England, to wit, at the parish of *All Saints* in *Lewes* in the county aforesaid, did not repair, nor endeavour to repair himself to his parochial church of *All Saints* in *Lewes* aforesaid, nor to any other church, chapel, or usual place of common prayer and preaching, or of other divine service there used and administred, according to the form of the statute in such case made and provided, but himself for all the time aforesaid voluntarily and obstinately without any lawful or reasonable cause, or any reasonable excuse, did forbear from the same, against the form of the statute in such case made and provided; whereby an action accrued as well to the Lord the King as to the said Samuel, who as well, &c. to demand and have of the said Thomas the said 200*l.* to wit, for every month of the said ten months in which the same Thomas from church, chapel, or place of prayer and preaching, or other divine service there as aforesaid used and administred, did forbear himself against the form of the statute aforesaid, 20*l.* Nevertheless the said Thomas, altho' often required, &c. the said 200*l.* to the said Lord the King and the said Samuel, who as well, &c. hath not paid, but the same to them hath altogether refused, and yet doth refuse to pay, to the damage of the said Samuel 40*l.* And therefore as well for the said Lord the King as for himself he produces the suit, &c.

When, &c. and says, that he doth not owe to the said Lord the King and the said Samuel, who as well, &c. the said 200*l.* nor any penny thereof, in manner and form as the said Samuel, who as well, &c. against him complains: And of this he puts himself upon the country: And the said Samuel, who as well, &c. thereof likewise, &c. Therefore let a jury thereon come before the Lord the King at *Westminster* on *Wednesday* next after three weeks of the Holy Trinity; and who neither, &c. to recognize, &c. because as well, &c. The same day is given to the parties aforesaid there, &c.

Powle and another against Barwell.

North'ton, to wit. **E**mercy Powle, widow, and John Tucker, assignees of Francis St. John now Debt against the bail on a bail bond. Pract. Reg. 172. Bart. late Francis St. John, Esq; late sheriff of the county aforesaid, according to the form of the statute in such case thereof lately made and provided, complain of John Barwell, otherwise called, &c. in the custody of the marshal, &c. in a plea that he render to them 1060*l.* of lawful money of Great Britain which he owes them and unjustly detains, for this, to wit, that whereas one Robert Tebutt the younger, after the first day of Trinity term in the year of the Lord 1706, to wit, on the 22d day of July in the year of the Lord 1715, at Oundle in the county aforesaid, by the said Francis St. John then Esq; then arrested by sheriff of the county aforesaid, was arrested at the suit of them the said Emery and John by virtue of a certain writ of the Lord the King, called a *Latitat*, out of the court of the said now Lord the King before the King himself (the same court then being at *Westminster* in the county of *Middlesex*) by the said Emery and John prosecuted against the said Robert Tebutt the younger in a plea of trespass, and also on a bill of the said Emery and John for 800*l.* on promise, according to the custom, &c. returnable in the same court on Monday next after three weeks of St. Michael then next following: And whereas the said Francis St. John, being then as aforesaid sheriff of the county of *North'ton* aforesaid, of and upon that taken, arrest took bail for the said Robert Tebutt the younger, to wit, the said Robert Tebutt the younger, and the said John Barwell and one Robert Tebutt, which said Robert Tebutt the younger, John Barwell and Robert Tebutt, on the said 22d day of July in the year of the Lord above said, at Oundle aforesaid in the county aforesaid, by a certain writing obligatory, which the same Emery and John, as well with the seal of the said John Barwell as with the seals of the said Rob. Tebutt the younger and Rob. Tebutt sealed, here in court produce, the date whereof is the same day and year last above said, by which said writing the said John Barwell acknowledged himself to be held and firmly bound to the said F. St. John, being then as aforesaid sheriff of the said county, by the name of F. St. John, Esq; sheriff of the county aforesaid, in the said 1060*l.* to be paid to the same sheriff, or his assigns, when he should be thereto required, with a condition to the same writing obligatory subscribed, that if the said Robert

The condition. *Robert Tebutt* the younger should appear before the said Lord the King at *Westminster* on the said *Monday* next after three weeks of *St. Michael*, to answer to the said *Emery Powle*, widow, and *John Tucker* in a plea of trespass, and also the bill of the said *Emery* and *John* against the said *R. Tebutt* the younger for 800 *l.* upon promise, according to the custom of the court of the Lord the King, that then that obligation should be void and of no effect, otherwise it should stand in its full strength, force and effect, as by that writing obligatory, and the condition thereof, is more fully manifest and appears: And whereas the said 800 *l.* not being paid to them, afterwards, to wit, on the third day of *March* in the year of the Lord above said, at *Oundle* afore said in the county afore said, at the request and charges of the said *Emery* and *John* the plaintiffs in that suit, the said *F. St. John*, by the name of *F. St. John*, Bart. late sheriff of the county of *North'ton* afore said, by a certain indorsement on that writing obligatory under the hand and seal of the said late sheriff made and attested in the presence of *Eliz. Hobkins* and *Tho. Elded* two credible witnesses, which the same *Emery* and *John*, sealed with the seal of office of the said *F. St. John*, here in court produce, the date whereof is the same day and year last mentioned, assigned to the same *Emery* and *John* the writing obligatory afore said, according to the form of the statute in such case lately made and provided, of which premisses the said *John Barwell* afterwards, to wit, the same day, year and place last above said had notice: And the said *Emery* and *John* in fact say, that he the said *R. Tebutt* the younger did not appear before the said Lord the King at *Westminster* on the said *Monday* next after three weeks of *St. Michael* in the condition afore said mentioned, according to the form of that condition, whereby the writing obligatory afore said became forfeited: By reason of which premisses, and by force and according to the form of the statute afore said in such case lately made and provided, an action accrued to the said *Emery* and *John* as assignees of the said *F. St. John*, late sheriff of the county of *North'ton* afore said, to demand and have of the said *John Barwell* the said 1060 *l.* Nevertheless the said *John Barwell*, altho' often required, &c. the said 1060 *l.* to the same *Emery* and *John* hath not yet paid, but hath hitherto altogether denied, and yet doth deny to pay them the same, to the damage of the said *Emery* and *John* 20 *l.* And therefore they produce the suit, &c.

The bond assigned. Breach. Whereby an action accrued. 4 Ann. c. 16. §. 20.

Powle and another against Tebutt.

The like against the principal. *North'ton*, to wit. *Emery Powle*, widow, and *John Tucker*, assignees, &c. complain of *Robert Tebutt* the younger, otherwise called, &c. in the custody of the marshal, &c. in a plea that he render to them 1060 *l.* of lawful money of *Great Britain* which he owes them and unjustly detains, for this, to wit, that whereas the said *Robert* after the first day of *Trinity* term 1706, to wit, on the 22d day of *July* 1715, at *Oundle* in the county afore said, by the said *F. St. John* then Esq; then sheriff of the said county, was arrested at the suit of them the said *J. and E.* by virtue of a certain writ of the said Lord the King, called a *Latitat*, out of the court of the said now Lord the King before the King himself, the same court then being at *Westminster* in the county of *Middlesex*, by the said *E. and J.* prosecuted against the said *Robert* in a plea of trespass, and also on a bill of the said *E. and J.* for 800 *l.* upon promise, according to the custom, &c. returnable in the same court on *Monday* next after three weeks of *St. Michael* then next following: And whereas the said *F. St. John*, being then as afore said sheriff of the said county, of and upon that arrest took bail for the said *R. Tebutt* the younger, to wit, the said *R. Tebutt* the younger, and *J. Barwell* and *R. Tebutt*, which said *R. Tebutt* the younger, *J. Barwell* and *R. Tebutt*, on the said 22d day of *July* in the year of the Lord above said, at *Oundle* afore said in the county afore said, by a certain writing obligatory, which the same *E. and J.* as well with the seal of the said *R. Tebutt* the younger, as with the seals of *J. Barwell* and *R. Tebutt* sealed, here in court produce, the date whereof is the day and year last above said; by which said writing the said *R. Tebutt* the younger acknowledged himself to be held and firmly bound to the said *F. St. John*, being then as afore said sheriff of the county afore said, by the name of *F. St. John*, Esq; sheriff of the county afore said, in the said 1060 *l.* to be paid to the same sheriff or his assigns, when he should be thereto required, with a condition to the said writing obligatory subscribed, that if the said *R. Tebutt* the younger should appear before the said Lord the King at *Westminster* on the said *Monday* next after three weeks of *St. Michael*, to answer the said *E. Powle*, widow, and *J. Tucker* in a plea of trespass, and also the bill of the said *E. and J.* against the said *R. Tebutt* the younger for 800 *l.* upon promise, according to the custom of the court of the Lord the King, that then the said obligation should be void and of no force, otherwise it should stand and remain in its full strength, force and effect, as by the writing obligatory afore said and the condition thereof is more fully manifest and appears: And whereas also the said 800 *l.* being to them then not paid, afterwards, to wit, on the third day of *May* in the year of the Lord above said, at *Oundle* afore said in the county afore said, at the request and charges of them the said *E. and J.* the plaintiffs in that suit, the said *F. St. John*, by the name of *F. St. John*

John, Bart. by a certain indorsement on the said writing obligatory under the hand and seal of the said late sheriff, made and attested in the presence of *E. H.* and *T. F.* two credible witnesses, which the same *E.* and *J.* with the seal of office of the said *F. St. John* sealed here in court produce, the date whereof is the said day and year last mentioned, assigned to the said *E.* and *J.* the writing obligatory aforesaid, according to the form of the statute in such case lately made and provided, of which premisses the said *R. Tebutt* the younger afterwards, to wit, the same day, year and place last aforesaid, had notice: And the said *E.* and *J.* in fact say, that he the said *R. Tebutt* the younger did not appear before the said Lord the King at *Westminster* on the said *Monday* next after three weeks of *St. Michael* in the condition aforesaid mentioned, according to the form of the said condition; whereby the writing obligatory aforesaid became forfeited: By reason of which premisses, and by force and according to the form of the said statute in such case lately made and provided, an action accrued to the same *E.* and *J.* as assignees of the said *F. St. John*, late sheriff of the county aforesaid, to demand and have of the said *R. Tebutt* the younger the said 1060*l.* Nevertheless the said *R. Tebutt* the younger, altho' often required, &c.

A. c. 16.
b. 26.

Parsley and his wife against Liversey and his wife.

London, to wit. **H**enry Parsley, clerk, and Margaret his wife, lately called *Margaret Barnbam*, complain of *Paradine Liversey*, Esq; and *Elizabeth* his wife, executrix of the last will and testament of *Archibald Clinkard*, late father of the said *Elizabeth*, deceased, otherwise called, &c. in the custody of the marshal, &c. in a plea that they render to them 200*l.* which they unjustly detain from them, for this, to wit, that whereas the said *Archibald* in his life-time, to wit, on the first day of *December* in the year of the Lord 1674 at London aforesaid, to wit, in the parish of *St. Mary le Bow* in the ward of *Cheape*, by his certain writing obligatory sealed with the seal of the said *Archibald* in his life-time; and to the court of the said Lady the Queen now here shewn, the date whereof is the same day and year, bound himself, his heirs, executors and administrators, in the penal sum of 200*l.* of lawful money of *England*, to pay to the same *Margaret* (by the name of *Mrs. Margaret Barnbam*, daughter of *Francis Barnbam* of *Linton* aforesaid and *Margaret* his wife) the sum of 20*l.* a year by equal portions at or upon the four usual feast-days in the year, to wit, the Birth of our Saviour, the Annunciation of the Virgin *Mary*, the feast-day of *St. John* the Baptist, and the feast of *St. Michael* the Archangel, by 5*l.* every quarter of a year; the first payment to begin on the feast of *St. John* the Baptist next ensuing the date of the writing aforesaid; which said sum of 20*l.* was to be paid at the then dwelling-house of the said *Francis Barnbam*, father of the said *Margaret*, for the term of six years next following the first payment, if the said *Margaret* the now plaintiff should so long live: And in fact the same *Henry* and *Margaret* say, that 5*l.* for one quarter of a year ended at the feast of *St. Michael* the Archangel in the year of the Lord 1679, by the said *Archibald* in his life-time to the same *Margaret* the now plaintiff while she was sole were due in arrear and unpaid, and yet are due in arrear and unpaid; whereby an action accrued to the same *Margaret* while she was sole, to demand and have of the said *Archibald Clinkard* in his life-time, and likewise to the said *Henry* and *Margaret* after the espousals between them celebrated, to demand and have of the said *Paradine* and *Elizabeth* after the death of the said *Archibald*, the said 200*l.* Nevertheless the said *Archibald* in his life-time, and while the same *Margaret* was sole, by the said *Margaret* to do it, and the said *Paradine* and *Elizabeth*, or either of them, after the death of the said *Archibald* by the said *Margaret* while she was sole, and also by the said *Henry* and *Margaret* after the espousals between them celebrated, altho' often required, &c. the said 200*l.* to the same *Margaret* while she was sole, or to the same *Henry* and *Margaret*, or either of them, after the espousals between them celebrated, have not paid, nor hath any of them paid, but have hitherto altogether denied to pay them the same, and the said *Paradine* and *Elizabeth*, and each of them, do still deny to pay them the same, to the damage of the said *Henry* and *Margaret* 40*l.* And therefore they produce the suit, &c.

Debt against an executrix on a bill penal made by her testator to pay an annuity of 20*l.* per ann. Salk. 749.

Browne and Kent.

London, to wit. **T**homas Browne, administrator of all and singular the goods and chattels, rights and credits, which belonged to *Dixy Kent* deceased at the time of his death, during the minority of *Hannah Kent*, *Jane Kent* and *Daniel Kent*, the legitimate children of the said *Dixy Kent*, complains of *Elizabeth Kent*, widow, executrix of the last will and testament of *John Kent* her late husband deceased, otherwise lately called *John Kent*, citizen and vintner of *London*, in the custody of the marshal, &c. in a plea that she render to him four hundred pounds of lawful money of

Debt by an administrator during minority against an executor on bond.

Salk. 37. 40.

Administra-
tion granted
by the Arch-
bishop of Can-
terbury, to an
other who
died.
Pract. Reg.
37. 43.

Profert of the
administration
to the plain-
tiff.

of *England*, which she unjustly detains from him, for this, to wit, that whereas the said *John* in his life-time, to wit, on the 20th day of *January* in the 36th year of the reign of the Lord *Charles* the Second, late King of *England*, &c. at *London* aforesaid, to wit, in the parish of *St. Mary le Bow* in the ward of *Cheape*, by his certain writing obligatory sealed with the seal of the said *John* in his life-time, and to the court of the said Lady the Queen now here shewn, the date whereof is the same day and year, acknowledged himself to be held and firmly bound to the said *Dixy Kent* in his life-time in the said 400 *l.* to be paid to the same *Dixy*, his executors or administrators, when he should be thereto after required: Nevertheless the said *John* in his life-time, or the said *Elizabeth* after the death of the said *John*, altho' often required, &c. the said 400 *l.* to the said *Dixy* in his life-time, or to one *D. Browne* now deceased, late administrator of all and singular the goods and chattels, rights and credits, which belonged to the said *Dixy* at the time of his death, during the minority of the said *Hannah, Jane* and *Daniel*, or to the said *Thomas* after the several deaths of the said *Dixy* and *Daniel*, (to which said *Thomas* administration of all and singular the goods and chattels, rights and credits, which belonged to the said *Dixy* during the minority of the said *Hannah, Jane* and *Daniel*, after the death of the said *Daniel*, the letters of administration of the goods of the said *Dixy* deceased, to the said *Daniel* for the use and during the minority of the said infants formerly granted, being by reason of the death of the said *Daniel* determined and expired, by *Thomas* by divine providence Archbishop of *Canterbury*, primate and metropolitan of all *England*, after the death of the said *Daniel*, to wit, on the 15th day of *November* 1700, at *London* aforesaid in the parish and ward aforesaid, was duly committed,) or to any of them have not paid, nor hath either of them paid, but the same to the said *Dixy* in his life-time, and to the said *Daniel* in his life-time, and to the said *Thomas* after the death of the said *Dixy* and *Daniel*, have altogether denied to pay, and the same to the said *Thomas* the said *Elizabeth* doth yet deny to pay, and unjustly detains, to the damage of the said *Thomas* 20 *l.* And therefore he produces the suit, &c. And the same *Thomas* produces here in court the letters of administration aforesaid of the Archbishop aforesaid, which the commission of the administration aforesaid to the same *Thomas* after the death of the said *Daniel* in form aforesaid testify, &c.

Fritb and his wife against Heard.

Debt by an
executor a-
gainst an ad-
ministrator on
bond.

London, to wit. **E**dward *Fritb* and *Margaret* his wife, executrix of the last will and testament of *Samuel Masson* late deceased, complain of *R. Heard* administrator of all and singular the goods and chattels, rights and credits, which belonged to *J. Heard* late of *Ware* in the county of *Hertford*, yeoman deceased, otherwise called, &c. in the custody of the marshal, &c. in a plea that he render to them 40 *l.* of lawful money of *England*, which he unjustly detains from them, for this, to wit, that whereas the said *John* in his life-time, to wit, on the 31st day of *March* 1688, at *London* aforesaid, to wit, in the parish of *St. Dunstan in the West* in the ward of *Farringdon Without*, by his certain writing obligatory sealed with the seal of the said *John* in his life-time, and to the court of the said Lord the King now here shewn, the date whereof is the same day and year, acknowledged himself to be held and firmly bound to the said *S.* in his life-time in the said 40 *l.* to be paid to the said *S.* when he should be thereto after required: Nevertheless the said *J.* in his life-time, or the said *R.* after his death, altho' often required, &c. to the same *S.* in his life-time, or to the said *M.* after his death while she was sole, or to the said *E.* and *M.* after the espousals between them celebrated, the said 40 *l.* have not, nor hath either of them, yet paid, but the said *J.* in his life-time did altogether refuse, and the said *R.* after his death doth yet refuse to pay, and unjustly detains the same, to the damage of the said *E.* and *M.* 10 *l.* And therefore they produce the suit, &c. And the same *E.* and *M.* produce here in court the letters testamentary of the last will and testament of the said *S.* whereby it sufficiently appears to the court here, that she the said *M.* is executrix of the will aforesaid, and thereof hath the administration, &c.

Joyner and Horwood.

Debt by an
executrix a-
gainst an at-
torney on
bond.

Midd, to wit. **M**argery *Joyner*, widow, executrix of the last will and testament of *R. Joyner*, complains of *Jonathan Horwood* of the parish of *St. Margaret Westminster* in the county of *Middlesex*, Gent. one of the attornies of the court of the Lord the King before the King himself, being present here in court in his proper person, otherwise called, &c. in a plea that he render to her 100 *l.* of lawful money of *England*, which he unjustly detains from her, for this, to wit, that whereas the said *J.* on the 7th day of *May* in the 36th year of the reign of the Lord *Charles* the Second, late King of *England*, &c. at *Westminster* in the county of *Middlesex* aforesaid, by his certain writing obligatory sealed with the seal of the said *J.* and to the court of the said Lord the King now here shewn, the date whereof is the same day and year, acknowledged himself to be held and firmly bound to the said *R.* in his life-time in the said 100 *l.* to be paid to the same *R.* when he should be thereto after required: Nevertheless the said, &c.

Offley against Orme and another.

Middlesex, to wit. **F**rances Offley, widow, complains of Thomas Orme, Esq; and Hugh Humphries, clerk, in the custody of the marshal, &c. in a plea that they render to her 84 *l.* of lawful money of England, which they owe her and unjustly detain, for this, to wit, that whereas by a certain indenture made at the parish of St. Clement Danes in the county of *Middlesex* aforesaid, on the 26th day of February in the year of the Lord 1682, between the said Frances Offley, widow and relict of Gabriel Offley, Doctor of divinity, and late prebendary of the prebend of Longdon, founded in the cathedral church of Litchfield in the county of Stafford, deceased, Mary Offley, spinster, daughter of the said Gabriel and Frances Offley, Henry Herbert of Ribsford in the county of Worcester, Esq; and Joseph Offley of the Middle-Temple, London, Esq; of the one part, and the said Thomas Orme, by the name of Thomas Orme of Hanch in the said parish of Longdon, Esq; and the said Hugh Humphries, by the name of Hugh Humphries, vicar of Longdon aforesaid and prebendary of Litchfield aforesaid, of the other part, one part of which indenture sealed with the seals of the said Thomas and Hugh the same Frances produces here in court, the date whereof is the same day and year aforesaid, the said Frances, Mary, Henry and Joseph, for and in consideration of the rent and covenants in the same indenture expressed, on the part of the said Thomas and Hugh to be paid and performed, did demise and to farm let unto said Thomas Orme and Hugh Humphries all that prebend, rectory or parsonage of Longdon aforesaid, with all tithes of grain and hay growing and renewing, or which at any time during the term by the said indenture demised should grow, arise and renew on the same, situate, lying and being in the said county of Stafford and the city and county of Litchfield, together with all rights, pensions, members, portions, profits, commodities and appurtenances to the same prebend belonging or in any manner appertaining, together with all and all manner of houses, edifices and buildings, yards, gardens, glebe-lands, meadows, pastures, commons, chief rents, reversions, services, tithes, tithings, fruits, oblations, obventions, emoluments, and all rights, properties, advantages and hereditaments whatsoever to the said prebend belonging or appertaining (except the presentation and advowson of Exception, and to the vicarage of Longdon aforesaid, when and as often as the same should become vacant during the term in the said indenture granted); To have and to hold, perceive, receive *Habund.* and enjoy all the said prebend, rectory or parsonage, glebe-lands, houses, meadows, pastures, commons, tithes, tithings, fruits, oblations, obventions, and all other the premises whatever, by the said indenture demised, with the appurtenances (except before excepted) to the said Thomas Orme and Hugh Humphries, their executors, administrators and assigns, from the 30th day of September then last past before the date of the said indenture, for, during and unto the full end and term of 20 years and an half and five months from thence next following, and fully to be compleat and ended; Yielding and paying therefore yearly and every *Reddunt.* year during the first 20 years and an half of the said term unto the said Frances Offley, her executors, administrators and assigns, the sum or yearly rent of 42 *l.* of lawful money of England, at the feast of the Annunciation of the Blessed Virgin Mary, and St. Michael the Archangel, by even and equal portions; the first payment to begin at the feast-day of the Annunciation of the Blessed Virgin Mary next ensuing the date of the said indenture; And also yielding and paying to the said Frances Offley, her executors, administrators and assigns, for the last five months of the said term, the sum or rent of 21 *l.* of like lawful money of England on the last day of the said term, without any deduction, defalcation or abatement to be made of any the rent or rents of 16 *l.* 13 *s.* 4 *d.* payable yearly to the prebendary of Longdon aforesaid, or of the pension or pensions of 30 *l.* payable yearly to the vicar-stall of the said prebend, or to the master of the works of the said cathedral church, or of the pension or yearly rent of 8 *s.* to the divinity reader or lecturer in the said cathedral church for the time being, or for tenths due to the King's Majesty and his successors for the said prebend, or for any other sums of money due or to be due for procurations, synodals or any other charges ordinary or extraordinary, which were or should be due, and thereout issuing either for reparations or any other taxes, charges, assessments or incumbrances whatever, as by the indenture aforesaid among other things more fully appears; by virtue of which said demise the same Thomas Orme and Hugh Humphries afterwards, Entry of the to wit, on the 10th day of March in the year of the Lord 1682, into the demised lessees. premises aforesaid with the appurtenances entered, and were and yet are thereof possessed; and 84 *l.* of the rent aforesaid for the premises aforesaid, for two years ended at the

Breach.

the feast of the Annunciation of the Blessed Virgin *Mary* last past, to the same *Frances* were in arrear, and yet are in arrear and unpaid; whereby an action accrued to the same *Frances* to demand and have of the said *Thomas Orme* and *Hugh Humpbries* the said 84 *l.* Nevertheless the said *T. Orme* and *H. Humpbries*, altho' often required, &c. the said 84 *l.* to the same *Frances* have not yet paid, nor hath either of them paid, but have hitherto altogether denied, and yet do deny to pay her the same, to the damage of the said *Frances* 100 *l.* And therefore she produces the suit, &c.

Plea, that plaintiff entered into part of the premisses before any rent due.

When, &c. and say, that the said *Frances Offley* the now plaintiff ought not to have or maintain her action aforesaid thereof against them, because they say, that after the said demise of the said premisses in the declaration aforesaid above specified, and before any rent by that demise became due or payable to the said *Frances Offley* the now plaintiff, to wit, on the 20th day of *March* 1682 aforesaid, she the said *Frances Offley* the now plaintiff with force and arms, &c. into the great parlour, parcel of the parsonage house, parcel of the premisses aforesaid, with the appurtenances, to the same *T. Orme* and *H. Humpbries* above in form aforesaid demised and not excepted, in and upon the possession of them the said *T. Orme* and *H. Humpbries* thereof entred, to wit, at *Longdon* aforesaid in the county of *Stafford* aforesaid, and them the said *T. Orme* and *H. Humpbries* from their possession thereof ejected, expelled and amoved, and them the said *T. Orme* and *H. Humpbries*, so from thence expelled and amoved from their possession thereof, from thence until to and after the said feast of the Annunciation of the Blessed Virgin *Mary* in the declaration aforesaid last mentioned kept out: And this they are ready to verify: Wherefore they pray judgment if the said *Frances Offley* the now plaintiff ought to have or maintain her action aforesaid thereof against them, &c.

Repl. and issue thereon.

And the said *Frances* says, that she by any thing by the said *Thomas* and *Hugh* above in pleaded alledged ought not to be precluded from her action aforesaid thereof against them had, because she says, that she the same *Frances* into the said great parlour, parcel of the parsonage house, parcel of the premisses aforesaid, with the appurtenances, to the said *T. Orme* and *H. Humpbries* in form aforesaid demised, did not enter, nor them from thence eject, expel and amove, in manner and form as the said *Thomas* and *Hugh* above by pleading have alledged: And this she prays may be inquired of by the country: And the said *Thomas* and *Hugh* thereof likewise, &c. Therefore the sheriff of *Stafford* is commanded that he cause to come before the Lord and Lady the King and Queen at *Westminster* on day next after twelve, &c. of the neighbourhood of *Longdon* aforesaid, by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. The same day is given to the parties aforesaid there, &c.

Hunlocke against Leigh, Bart.

Debt against an heir on bond.

London, to wit. **D**enbam *Hunlocke*, merchant taylor, complains of *Tho. Leigh*, Bart. son and heir of *Wollei Leigh*, Esq; late deceased, otherwise called *Wollei Leigh* of *Thorpe* in the county of *Surry*, Esq; in the custody of the marshal, &c. in a plea that he render to him 300 *l.* of lawful money of *England*, which he owes him and unjustly detains, for this, to wit, that whereas the said *Wollei* in his life-time, to wit, on the 19th day of *May* 1640 at *London*, to wit, in the parish of *St. Mary le Bow* in the ward of *Cheape*, *London*, by his certain writing obligatory sealed with the seal of the said *Wollei* in his life-time, and to the court of the Lord the King now here shewn, the date whereof is the same day and year, acknowledged himself to be held and firmly bound to the same *Denbam* in the said 300 *l.* to be paid to the same *Denbam*, when he should be thereto required, and to the same payment well and faithfully to be made the said *Wollei* in his life-time bound himself and his heirs by the same writing: Nevertheless the said *Wollei* in his life-time, and the said *Thomas* after the death of the said *Wollei*, altho' often required, &c. the said 300 *l.* to the said *Denbam* have not yet paid, nor hath either of them paid, but them to him hitherto to pay the said *Wollei* in his life-time, and the said *Thomas* after the death of the said *Wollei*, have altogether denied, and the said *Thomas* doth yet deny to pay the same, to the damage of the said *Denbam* 20 *l.* And therefore he produces the suit, &c.

Pract. Reg. 18.

Plea, that he hath nothing by descent except a reversion.
8 Rep. 134.

And the said *Thomas* by *G. B.* his attorney comes and defends the force and injury when, &c. and says, that he cannot deny the action of the said *Denbam* aforesaid, nor but that the writing aforesaid is the deed of the said *Wollei* his father, nor but that he detains from the said *Denbam* the said 300 *l.* in the form in which the said *Denbam* above against him hath declared: Nevertheless the said *Thomas* says, that he hath not any lands or tenements by hereditary descent from the said *Wollei* his father in fee-simple, nor had on the day of the exhibition of the bill of the said *Denbam* aforesaid, nor ever after, except four messuages and 17 acres and two rods of land with the appurtenances in *Thorpe* and *Puttenham* in the county of *Surry* of the yearly value of 100 *l.* and one messuage with the appurtenances in *Eastwistham* in the county of *Kent* of the yearly value of 40 *s.* and except the reversion of the manor of *Hall-place* with the appurtenances, and of five messuages, six cottages, two dove-houses, three gardens, three orchards, 650 acres of land, 200 acres of meadow, 500 acres of

of pasture, 100 acres of wood, 300 acres of heath and furz, 200 acres of moor and 50 s. of rent, with the appurtenances in *Tborpe*, *Cbertsey* and *Egham* in the said county of *Surry*, and of the rectory of *Tborpe* with the appurtenances, and of one messuage, one dove-house, 100 acres of land, 40 acres of meadow, 100 acres of pasture, 20 acres of wood, and 50 acres of heath and furz with the appurtenances, in *Puttenbam*, *Elsted*, *Seale* and *Tongham* in the said county of *Surry*; which said manor, rectory, tenements and premises with the appurtenances, *John Lowiber*, Bart. and *Elizabeth* his wife, who was the wife of the said *Wollei*, hold for the term of the life of the said *Elizabeth* in the right of the said *Elizabeth*, and are of no value during the life of the said *Elizabeth*, and after the death of the said *Elizabeth* of the yearly value of 500 l. and except the reversion of the manor of *Staines* with the appurtenances, and of one cottage, one parcel of land containing 28 feet in breadth and 83 feet in length, and another parcel containing in breadth 24 feet, with the appurtenances in *Staines* in the county of *Middlesex*, and of one messuage and 16 acres of land with the appurtenances in *Addington* in the said county of *Surry*, and of the yearly rent of 11 l. issuing out of one mill, one messuage and two acres of meadow in *Staines* aforesaid in the said county of *Middlesex*, and of the fairs and market in *Staines* aforesaid to be held, and of a sum or pension of 2 s. issuing out of the vicaridge of *Staines* aforesaid, after the expiration of 99 years, commencing from the 17th day of *May* in the year of the Lord 1636, thereof granted to one *William Drake*, Esq; by the said *Wollei* in his life-time, under the yearly rent of a pepper-corn, by a certain indenture made at *Staines* aforesaid on the same 17th day of *May* in the year of the Lord 1636 aforesaid, between the said *Wollei* on the one part and the said *William Drake* on the other part, bearing date the same day and year: And this he is ready to verify: Wherefore he prays judgment if he, as son and heir of the said *Wollei*, ought to be charged with the debt aforesaid, except in the said four messuages and 17 acres and two rods of land with the appurtenances in *Tborpe* and *Puttenbam* aforesaid, and the messuage and appurtenances in *Eastwickham* aforesaid, and except in the said several reversions when they shall happen, by virtue of the writing aforesaid, &c. with this, that the said *Thomas Leigh* will verify, that the said *Elizabeth* is still surviving and in full life, to wit, at *London* aforesaid in the parish and ward aforesaid, &c.

And the said *Denbam*, for that the said *Thomas* doth not deny the said action of the said Plaintiff prays judgment, nor but that the writing aforesaid is the deed of the said *Wollei*, nor but that the said *Thomas* doth detain from the said *Denbam* the said 300 l. in the form in which the said *Denbam* above thereof against him hath declared, prays judgment and his debt aforesaid, together with his damages by reason of the detention of that debt, to be adjudged to him, to be levied on the said four messuages, &c. and on the said several reversions with the appurtenances when they shall happen, &c. Therefore it is considered, that the said *Denbam* recover against the said *Thomas* his debt aforesaid, as also his damages by reason of the detention of that debt to 50 s. to the said *Denbam* with his assent adjudged, to be levied on the said four messuages and 17 acres and two rods of land with the appurtenances in *Tborpe* and *Puttenbam* aforesaid, and the said messuage with the appurtenances in *Eastwickham* aforesaid, and on the said several reversions with the appurtenances when they shall happen: And the said *Thomas* in mercy, &c.

Lynch against *Coote*, Esq;

Midd, to wit. **J**OHN *Lynch*, Gent. complains of *Richard Coote*, Esq; in the custody of the Debt on three judgments for damages recovered in B. judgment in Ireland and for costs on three writs of error.
marshal, &c. in a plea that he render to him 96 l. 4 s. 3 d. which he owes him and unjustly detains, for this, to wit, that whereas the said *John* in the court of the Lord *William* the Third, now King of *England*, *Scotland*, *France* and *Ireland*, called the King's Court in the kingdom of *Ireland*, before *Richard Pynz*, Knt. and his companions, then justices of the said now Lord the King of the Bench of his kingdom of *Ireland*, in *Hillary* term in the 6th year of the reign of the said now Lord the King, by the consideration of the same court did recover against the said *Richard Coote* 33 l. 8 s. 3 d. which to the same *John*, with his assent, by the said court of the Lord the King of his Bench in the said kingdom of *Ireland*, were adjudged for his damages which he had as well by reason of a certain trespass and ejectment by the said *Richard* on the said *John* lately made, as for his costs and charges by him about his suit in that behalf expended, whereof the said *John* is convicted, as by the record and proceedings thereof in the court of the said now Lord the King before the King himself here, to wit, at *Westminster* in the county of *Middlesex* remaining, which the said now Lord the King for certain reasons caused to be transmitted into the same court of the said now Lord the King before the King himself, is more fully manifest and appears; which said judgment in the same court of the Lord the King before the King himself here, to wit, at *Westminster* aforesaid in the county of *Middlesex* aforesaid, in its full strength

strength and effect remains, not satisfied or discharged, and whereon the same *John* hath not yet sued out his execution for the damages aforesaid; whereby an action accrued to the same *John* to demand and have of the said *Richard* the said 33*l.* 8*s.* 3*d.* part of the said 96*l.* 4*s.* 3*d.* And whereas also the same *John* lately in the court of the said now Lord the King before the King himself, called the King's Court in his kingdom of *Ireland*, by the consideration of the same court did recover against the said *Richard Coote* 18*l.* 16*s.* sterling, which to the same *John* were adjudged for his costs and damages which he had sustained by reason of the delay of execution of the judgment aforesaid, by the pretence of prosecuting a certain writ of the said Lord the King to correct error in the judgment aforesaid, and that the same *John* should have thereof execution, &c. as by the record and proceedings of the same judgment last mentioned in the court of the said now Lord the King before the King himself here, to wit, at *Westminster* aforesaid in the county of *Middlesex* aforesaid, now remaining, which the same Lord the King for certain reasons caused to be transmitted into the same court of the said Lord the King before the King himself here at *Westminster* in the county of *Middlesex*, is more fully manifest and appears; which said last mentioned judgment, to wit, in the same court of the said now Lord the King before the King himself at *Westminster* aforesaid in the county of *Middlesex* aforesaid, in its full force and effect likewise remains, not satisfied or discharged; and the same *John* hath not yet sued out his execution for the said 18*l.* 16*s.* for the damages and costs aforesaid last mentioned; whereby an action likewise accrued to the same *John* to demand and have of the said *Richard* the same 18*l.* 16*s.* of the said 96*l.* 4*s.* 3*d.* other parcel: And whereas also the same *John* lately in the said court of the said now Lord the King before the King himself, to wit, in *Hillary* term in the 9th year of the reign of the said now Lord the King, the same court being then and yet at *Westminster* in the county of *Middlesex* aforesaid, by the consideration of the same court did recover against the said *Richard Coote* 44*l.* which to the same *John Lynch* by the court of the said now Lord the King before the King himself then and there, to wit, at *Westminster* in the county of *Middlesex* aforesaid, according to the form of the statute in such case made and provided, were adjudged for his costs, charges and damages, which he had sustained by reason of the delay of execution of the judgment aforesaid, by the pretence of prosecuting a certain other writ of the said Lord the King to correct error; and that the same *John Lynch* should have thereof execution, as by the record and proceedings thereof in the said court of the said now Lord the King before the King himself here, to wit, at *Westminster* in the county of *Middlesex* aforesaid, remaining, more fully is manifest and appears; which said last mentioned judgment in the same court of the said Lord the King here before the King himself at *Westminster* in the county of *Middlesex* in its full force and effect remains, not satisfied or discharged; and the same *John* hath not yet sued out his execution for the said 44*l.* for his costs, charges and damages last mentioned; whereby an action accrued to the same *John* to demand and have of the said *Richard* the same 44*l.* residue of the said 96*l.* 4*s.* 3*d.* Nevertheless the said *Richard*, altho' often required, &c. the said several sums of 32*l.* 8*s.* 3*d.* 18*l.* 16*s.* and 44*l.* in the whole amounting to 96*l.* 4*s.* 3*d.* hath not yet paid to the same *John*, but hath hitherto altogether refused and yet doth refuse to pay him the same, to the damage of the said *John* 20*l.* And therefore he produces the suit, &c.

Pleat to part No such record. When, &c. And as to the said 33*l.* 8*s.* 3*d.* in the declaration aforesaid first mentioned, parcel of the said 96*l.* 4*s.* 3*d.* the same *Richard* says that the said *John* ought not to have or maintain his action aforesaid thereof against him, because he says that there is not any such record of the recovery of the said 33*l.* 8*s.* 3*d.* against him the said *Richard*, as by his declaration aforesaid is above supposed: And this he is ready to verify: And as to the said 18*l.* 16*s.* in the declaration aforesaid second mentioned, other parcel of the said 96*l.* 4*s.* 3*d.* the same *Richard* says, that the said *John* ought not to have or maintain his action aforesaid thereof against him, because he says that there is not any such record of the recovery of the said 18*l.* 16*s.* against him the said *Richard*, as by the declaration aforesaid is farther likewise supposed: And this he is also ready to verify: And as to the said 44*l.* in the declaration aforesaid mentioned, residue of the said 96*l.* 4*s.* 3*d.* the same *Richard* says, that the declaration aforesaid as to the said 44*l.* and the matter in the same contained are not sufficient in law for the said *John* to have or maintain his action aforesaid thereof against him for the same, to which said declaration as to the said 44*l.* he the said *Richard* hath no necessity, nor is by the law of the land obliged, in any manner to answer: And this he is ready to verify: Wherefore, for want of a sufficient declaration in that behalf, the same *Richard* prays judgment, and that the said *John* may be precluded from his action aforesaid thereof against him therefore had; and for causes of demurrer in law in that behalf to that declaration as to the said 44*l.* the same *Richard* according to the form of the statute in such case lately made and provided doth set down and to the court here express these causes following, to wit, That the said 44*l.* to the same *John*

The like to other part.

Demurrer to the residue.

The causes.

27 El. c. 5.
4 A. c. 16.

John by the court of the said Lord the King before the King himself at *Westminster*, for his costs, charges and damages, by reason of the delay of execution of the judgment aforesaid by pretence of prosecuting the writ of error aforesaid, adjudged, are not recoverable by the law of the land of this kingdom of *England*, in the said court of the said Lord the King before the King himself at *Westminster*, and that the declaration aforesaid as to the said 44 *l.* is insensible, uncertain and wants form: And this the same *Richard* is ready to verify: Wherefore he prays judgment of the declaration aforesaid, and that the said declaration as to the said 44 *l.* may be quashed, &c.

And the said *John* says, that he by any thing by the said *Richard* above in pleading alledged ought not to be precluded from his action aforesaid thereof against the said *Richard* had, because as to the said plea by the said *Richard* as to the said 33 *l.* 8 *s.* 3 *d.* in the declaration aforesaid above first mentioned, parcel of the said 96 *l.* 4 *s.* 3 *d.* above in bar pleaded, the same *John* says, that there is such record of the recovery of the said 33 *l.* 8 *s.* 3 *d.* against the said *Richard* in the said court of the said now Lord the King here before the King himself, to wit, at *Westminster* in the county of *Middlesex* aforesaid, remaining, as the same *John* above thereof hath declared: And this he is ready to verify by that record, as the court of the said now the Lord the King here shall consider, &c. And thereupon the same *John* is ordered to have the record thereof before the said Lord the King at *Westminster* on day next after at his peril: The same day is given to the said *Richard* there, &c. And as to the said plea by the said *Richard* as to the said 18 *l.* 16 *s.* in the declaration aforesaid second mentioned, other parcel of the said 96 *l.* 4 *s.* 3 *d.* above in bar pleaded, the same *J.* likewise says, that there is such record of the recovery of the said 18 *l.* 16 *s.* against the said *Richard* in the said court of the said Lord the King before the King himself here, to wit, at *Westminster* in the county of *Middlesex* aforesaid, remaining, as the same *John* above thereof hath declared: And this likewise he is ready to verify by that record, as the court of the said Lord the King now here shall consider, &c. And thereupon the said *John* is likewise ordered to have the record thereof before the Lord the King at *Westminster* on day next after at his peril: The same day is given to the said *Richard* there, &c. And as to the said matter in abatement of the declaration of the said *John* aforesaid, as to the said 44 *l.* in the same declaration last mentioned, residue of the said 96 *l.* 4 *s.* 3 *d.* by the said *Richard* above alledged, the same *J.* says, that by any thing before alledged the declaration of the said *J.* aforesaid as to the said 44 *l.* ought not to be quashed, because he says that the declaration aforesaid as to the same 44 *l.* and the matter in the same contained are good and sufficient in law for the said *J.* to maintain his action aforesaid thereof against the said *R.* therefore had, which said declaration as to the said 44 *l.* and the matter in the same contained the same *J.* is ready to verify and prove, as the court, &c. And because the said *R.* doth not answer to that declaration as to the same 44 *l.* nor hitherto any way deny the same, the same *J.* prays judgment and his debt aforesaid as to the same 44 *l.* together with his damages by reason of the detention of that debt, to be adjudged to him, &c. But because the court of the said Lord the King now here are not yet advised to give their judgment of and upon the premises; day thereof is given to the parties aforesaid before the Lord the King at *Westminster* until day next after to hear their judgment of and upon the premises aforesaid, because the court of the said Lord the King now here thereof not yet, &c.

Repl. several-
ly, that there
is such record.

Joinder in de-
murrer.

Jones at the suit of Hayes, widow.

AND the said *Margaret* by *John Allen* her attorney comes and defends the force and in-jury when, &c. and prays oyer of the writing obligatory aforesaid; and it is read to her; she likewise prays oyer of the condition of the same writing; and it is read to her in these words, to wit, The condition of the obligation is such, That if the above-bounden *C. Dunster, D. Wright and M. Jones*, or any of them, their or any of their heirs, executors or administrators, do well and truly pay, or cause to be paid, unto the abovenamed *Elizabeth Hayes*, her executors, administrators or assigns, the full sum of 100 *l.* with lawful interest of good and lawful money of *Great Britain*, on the fifth day of *December* now next ensuing; then this obligation to be void, or else to remain in full force and effect: Which being read and heard, the same *Marg.* says that she ought not to be charged with the debt aforesaid by virtue of the writing obligatory aforesaid, because she says that after the 29th day of *September* in the year of the Lord 1714, to wit, on the said fifth day of *July* in the year of the Lord 1718, at the parish of *St. Martin in the fields* aforesaid it was corruptly agreed between the said *Eliz.* and the said *Marg.* and *C. D.* and *D. W.* that the said *Eliz.* should accommodate and lend to the said *Margaret, C. and D.* the sum of 100 *l.* and should give day for the payment thereof until the fifth day of *December* next ensuing; and that the said *Margaret, C. and D.* for the loan of the same 100 *l.* and for giving day for the payment thereof for the time aforesaid, should give and pay to the said *Elizabeth* the sum of 5 *l.* 5 *s.* upon the said fifth day of *December* then next following, for the interest and gain thereof, and for giving

The statute of
usury pleaded.

giving day for the payment of the same 100*l.* which said 5*l.* 5*s.* exceed the rate of 5*l.* for the interest of 100*l.* for one whole year, against the form of the statute in such case made and provided: And afterwards, on the said fifth day of *July* in the year and place in the declaration above mentioned, the said *Elizabeth* in prosecution of the corrupt agreement aforesaid did accommodate and lend the said *Margaret C. and D.* the said 100*l.* and the writing aforesaid, in the declaration aforesaid above specified, by the said *Margaret C. and D.* was sealed, and as their deed delivered to the same *Elizabeth*; and the same *Margaret C. and D.* then and there, to wit, on the said fifth day of *July* in the year and place in the declaration aforesaid above mentioned, did pay to the said *Elizabeth* the said sum of 5*l.* 5*s.* for the gain and interest of the said 100*l.* and for giving day for the payment thereof on the said fifth day of *December* next ensuing, in performance and completion and according to the form and effect of the corrupt agreement aforesaid; whereby the writing aforesaid in the declaration aforesaid above mentioned, by force of the statute aforesaid in such case made and provided, is void in law: And this she is ready to verify: Wherefore she prays judgment if she ought to be charged with the debt aforesaid by virtue of the writing aforesaid, &c.

Ed. Whitaker.

Repl. for a just debt. And the said *Elizabeth* says, that she by any thing by the said *Margaret* above in pleading alledged ought not to be precluded from her action aforesaid thereof against the said *Margaret* had, because she says, that the said *Margaret* the writing obligatory aforesaid, in the declaration aforesaid mentioned, to the same *Elizabeth* did make, seal, and as her deed deliver for a true and just debt to the same *Elizabeth* from the said *Margaret* due; without that, that it was corruptly agreed between the said *Elizabeth* and the said *Margaret*, and *C. Dunster* and *D. Wright*, in manner and form as the said *Margaret* above by pleading hath alledged: And this she is ready to verify: Wherefore she prays judgment and her debt aforesaid, together with her damages by reason of the detention of that debt, to be adjudged to her, &c.

Rejoinder. And the said *Margaret* as before says, that it was corruptly agreed between the said *Elizabeth* and the said *Margaret* and *C. D.* and *D. W.* in manner and form as she the same *Margaret* above by pleading hath alledged: And of this she puts herself upon the country: Issue on the traverse. And the said *Elizabeth* thereof likewise: Therefore let a jury thereon come before the Lord the King at *Westminster* on day next after and who neither, &c. to recognize, &c. because as well, &c. The same day is given to the parties aforesaid there, &c.

A bill filed against an attorney of the C. B. on bond. Pract. Reg. 129. *Midd*, to wit. **F**rances O. widow, by Robert B. her attorney complains of Robert P. one of the attornies of the court of the Lady the Queen of the Bench here, otherwise called Robert P. of the city of *L.* in the county of the same city, Gent. present here in court in his proper person, for this, that he hath not render'd to the same *Frances* 120*l.* which he owes her and unjustly detains, &c. for this, to wit, that the said *Robert* on the 15th day of *July* in the third year of the reign of the Lady *Anne*, now Queen of *England*, at *Westminster* in the county of *Middlesex* aforesaid, by his certain writing obligatory acknowledged himself to be bound to the same *Frances* in the said 120*l.* to be paid to the same *Frances* when he should be thereto required: Nevertheless the said *Robert*, altho' often required, &c. the said 120*l.* to the same *Frances* hath not yet paid, but hath hitherto denied and yet doth deny to pay her the same; whereby the same *Frances* says that she is prejudiced, and hath damage to the value of 20*l.* And therefore she prays remedy, &c. And she produces here in court the writing aforesaid, which the debt aforesaid in form aforesaid testifies, the date whereof is the day and year aforesaid, &c.

The rule thereon.

Unless the defendant shall appear on Saturday next after the morrow of the Ascension of the Lord, let him be forejudged the court.

By the court.

Cook.

Plus

Pleas before the Lord the King at Westminster of Trinity term in the 11th year of the reign of the Lord William the Third, now King of England, &c.

Midd', to wit. **B**E it remember'd that otherwise, to wit, in *Easter* term last past, before The manner of making up the *Nisi prius* record for trial in *K. B.* the Lord the King at *Westminster* came *Samuel D. Gent.* by *J. L.* his attorney, and produced in the court of the said Lord the King then there his certain bill against *John A. Esq;* otherwise called *John A. of the Inner Temple, London, Esq;* in the custody of the marshal, &c. in a plea of debt; and there are pledges to prosecute, to wit, *John Doe* and *Richard Roe*, which said bill follows in these words, to wit, *Middlesex*, to wit, *Samuel Davis, Gent.* complains of *John A. Esq;* otherwise called *John A. of the Inner Temple, London, Esq;* being in the custody of the marshal of the *Marshalsea* of the Lord the King before the King himself, in a plea that he render to him 130 *l.* of lawful money of *England*, which he owes him and unjustly detains, for this, to wit, that whereas the said *John* on the 17th day of *April* in the year of our Lord 1695, at *Westminster* in the county aforesaid, by his certain writing obligatory sealed with the seal of the said *John*, and to the court of the said Lord the King now here shewn, the date whereof is the same day and year, acknowledged himself to be held and firmly bound to the said *Samuel* in the said 130 *l.* to be paid to the same *Samuel* when he should be thereto after required: Nevertheless the said *John*, altho' often required, &c. the said 130 *l.* to the said *Samuel* hath not yet paid, but hath hitherto altogether denied, and yet doth deny to pay him the same, to the damage of the said *Samuel* 20 *l.* And therefore he produces the suit, &c. Debt on bond.

And now on this day, to wit, *Friday* next after the morrow of the Holy *Trinity* in this *Imparlanct.* same term, until which day the said *John* had leave to imparl to the said bill, and then to answer, &c. before the Lord the King at *Westminster* comes as well the said *Samuel* by his attorney aforesaid, as the said *John* by *J. M.* his attorney: And the same *John* defends the force and injury when, &c. and says, that he ought not to be charged with the debt aforesaid by virtue of the writing aforesaid, because he says, that that writing is not his deed: Not his deed. And of this he puts himself on the country: And the said *Samuel* thereof likewise, &c. Therefore let a jury thereon come before the Lord the King at *Westminster* on *Wednesday* next after the *Octave* of the Holy *Trinity*; and who neither, &c. to recognize, &c. because as well, &c. The same day is given to the parties aforesaid there, &c.

Pleas before the Lord the King at Westminster of Trinity term in the 11th year of the reign of the Lord William the Third, now King of England, &c.

Midd', to wit. **T**HE jury between *Samuel Davis, Gent.* by his attorney, plaintiff, and *John A. Esq;* otherwise called *John A. of the Inner Temple, London, Esq;* in debt. The Jurata, defendant, in a plea of debt, is put in respite before the Lord the King at *Westminster* until *Tuesday* next after three weeks of the Holy *Trinity*, unless the trusty and well beloved of the Lord the King *John Holt, Knt.* chief justice of the Lord the King, assigned to hold pleas in the court of the said Lord the King before the King himself, on *Monday* next after three weeks of the Holy *Trinity* at *Westminster* in the great hall of pleas there, by the form of the statute, &c. shall first come for want of jurors, &c. Therefore let the sheriff have the bodies, &c. The same day is given to the parties aforesaid there, &c.

Farmer against Rogers.

North'ton, to wit. **R**ichard Rogers the elder, late of the parish of *Daventry* in the county Debt on a Gent. in a plea that he render to him 100 *l.* which he owes him and unjustly detains: And whereon the same *Edward* by *W. L.* his attorney says, that whereas the said *Edward* on the 29th day of *September* in the year of the Lord 1698, at the parish of *Daventry* aforesaid, did demise and to farm let unto the said *Richard* a messuage and four rods of land lying and being in the parish of *Daventry* aforesaid, and also one other rod of land lying and being, &c. with the appurtenances, except out of the said demise to the said *Edward F.* all that little close of pasture called the *Goads Close*, &c. To hold to the said *Richard* (except before excepted) from thenceforth as long as both the parties aforesaid should

should please; Yielding and paying therefore to the said *E.* as long as the said *Richard* the demised premisses aforesaid (except before excepted) should have and enjoy, after the rate of 50*l.* of lawful money of *England* by the year, to be paid at the two most usual feasts, to wit, at the feast of the Annunciation of the Blessed Virgin *Mary* and of St. *Michael* the Archangel, by even and equal portions; by virtue of which said demise the said *Richard* into the demised premisses aforesaid (except before excepted) entered, and was thereof possessed, and for one whole year from thence next ensuing continued thereof possessed, and 50*l.* of the rent aforesaid, parcel of the said 100*l.* for the said one year ended at the feast of St. *Michael* the Archangel last past, to the same *E.* were in arrear and yet are in arrear and unpaid; whereby an action accrued to the same *E.* to demand and have of the said *R.* the said 50*l.* parcel of the said 100*l.* Nevertheless the said *R.* altho' often required, &c. the said 50*l.* parcel of the said 100*l.* hath not yet paid to the said *E.* but hath altogether denied and yet doth deny to pay him the same: And whereas also the said *E. F.* on the said 29th day of *September* in the year of the Lord 1698 aforesaid, at *D.* aforesaid, did demise and to farm let to the said *R.* one other messuage, &c. with their appurtenances; To have and to hold the last mentioned tenements aforesaid with the appurtenances to the same *R.* from thenceforth as long as both the parties aforesaid should please; Yielding and paying therefore to the said *E.* as long as the said *R.* the last mentioned demised premisses aforesaid should hold and enjoy, after the rate of 50*l.* of lawful money of *England* by the year at the two most usual feasts, to wit, the feast of the Annunciation of the Blessed Virgin *Mary* and St. *Michael* the Archangel, by even and equal portions: By virtue of which said demise the same *R.* afterwards, to wit, on the first day of *October* in the year of the Lord 1698 aforesaid last mentioned, into the demised premisses aforesaid with the appurtenances entered, and was thereof possessed, and for one whole year from thence next ensuing continued thereof possessed, and 50*l.* of the rent aforesaid, residue of the said 100*l.* for the said one year ended at the feast of St. *Michael* the Archangel last past, to the same *E.* were in arrear and yet are in arrear and unpaid; whereby an action accrued to the same *E.* to demand and have of the said *R.* the said 50*l.* residue of the said 100*l.* Nevertheless the said *R.* altho' often required, &c. the said 50*l.* residue of the said 100*l.* hath not yet paid to the said *E.* but hath altogether denied, and yet doth deny to pay him the same, to the damage of the said *E.* 50*l.* And therefore he produces the suit, &c.

Michell at the suit of *Rolfe*.

Plea that the bond was delivered as an escrow.
Co. Lit. 303.
9 Co. 137.
Pract. Reg. 317, 540.

And so not his deed.
Salk. 274.

Demurrer.

WHEN, &c. And says, that the said *John Rolfe* ought not to have or maintain his action aforesaid thereof against him, because he says, that he ought not to be charged with the debt aforesaid by virtue of the writing obligatory aforesaid, because he says, that he the said *John Michell* on the 27th day of *May* in the 12th year of the reign of the Lord *William* the third, late King of *England*, &c. at *London* aforesaid in the parish of St. *Mary le Bow* in the ward of *Cheape*, the writing aforesaid made and sealed, and to one *Evan Brown* as an escrow safely to be kept on the condition following then and there delivered, to wit, if the said *John Rolfe* on the 20th day of *June* in the year aforesaid, at *London* aforesaid in the parish and ward aforesaid, should deliver to one *Stephen Brown* 100 yards of woollen cloth called *Carsets*, and 200 yards of linen cloth, in good and merchandizable condition, to be exported by the said *Stephen* in the ship, called the *Fisher*, to *Virginia* in parts beyond the seas, that then the said *Evan Brown* the writing obligatory aforesaid to the said *John Rolfe* as the deed of the said *John Michell* should deliver, and otherwise not: And the said *John Michell* says, that the said *John Rolfe* on the 20th day of *June* in the year aforesaid did not deliver to the said *Stephen* the said 100 yards of woollen cloth or the 200 yards of linen cloth: And so the same *John Michell* says, that the writing obligatory aforesaid here in court produced by the said *John Michell*, in form aforesaid delivered, the condition aforesaid not being performed, is not his deed: And this he is ready to verify: Wherefore he prays judgment, if the said *John Rolfe* ought to have or maintain his action aforesaid thereof against him, &c.

And the said *John Rolfe* says, that he by any thing by the said *John Michell* above in pleading alledged ought not to be precluded from his action aforesaid thereof against the said *John Michell* had, because he says, that the plea aforesaid by the said *John Michell* in manner and form aforesaid above pleaded, and the matter in the same contained, are not sufficient in law to preclude him the said *John Rolfe* from his action aforesaid thereof against the said *John Michell* had, to which said plea he the same *John Rolfe* hath no necessity, nor is by the law of the land obliged, in any manner to answer: And this he is ready to verify:

ry: Wherefore for want of a sufficient answer in this behalf, he the same *John Rolfe* prays judgment and his debt aforesaid, together with his damages by reason of the detention of that debt, to be adjudged to him, &c. And for causes of demurrer in law in this behalf the same *John Rolfe*, according to the form of the statute in such case lately made and provided; doth set down and to the court here exprefs, That the said *John Michell* doth not conclude his plea aforesaid to the country as he ought, and that the said plea is not issuable, and wants form, &c.

St. John Brodrick.

And the said *John Michell* says, that the plea aforesaid by him the said *John Michell* in manner and form aforesaid above pleaded, and the matter in the same contained, are good and sufficient in law to preclude the said *John Rolfe* from his action aforesaid thereof against him the said *John Michell* had; which said plea, and the matter in the same contained, he the same *John Michell* is ready to verify and prove, as the court, &c. And because the said *John Rolfe* doth not answer to that plea, nor hitherto any way deny the same, he the same *John Michell* as before prays judgment, and that the said *John Rolfe* may be precluded from his action aforesaid thereof against him the said *John Michell* had, &c. But because the court of the said Lady the Queen now here are not yet advised to give their judgment of and upon the premisses, day thereof is given to the parties aforesaid before the Lady the Queen at *Westminster* until day next after to hear their judgment of and upon those premisses, because the court of the said Lady the Queen now here thereof not yet, &c.

Bond and Butler.

Midd. to wit. **E**lizabeth Bond, widow, administratrix of all and singular the goods and chattels, rights and credits, which belonged to *James Goodwin*, Gent. deceased, unadministred by *James Bond* also deceased, late administrator of the said *James Goodwin*, complains of *James Butler*, Esq; otherwise called *James Butler* of the parish of *St. James* within the liberty of *Westminster* in the county of *Middlesex*, Esq; in the custody of the marshal, &c. in a plea that he render to her 300*l.* of lawful money of *England*, which he unjustly detains from her, for this, to wit, that whereas the said *James Butler* on the 5th day of *May* in the year of the Lord 1715, at *Westminster* in the county aforesaid, by his certain writing obligatory sealed with the seal of him the said *James Butler*, and to the court of the said Lady the Queen now here shewn, the date whereof is the same day and year, acknowledged himself to be held and firmly bound to the same *James Goodwin* in his life-time in the said 300*l.* to be paid to the same *James Goodwin* when he should be thereto required: Nevertheless the said *James Butler*, although often required, &c. the said 300*l.* to the said *James Goodwin* in his life-time, or to the said *James Bond* in his life-time after the death of the said *James Goodwin*, or to the same *Elizabeth* after the death of the said *James Bond*, (to which said *Elizabeth*, after the several deaths of the said *James Goodwin* and *James Bond*, administration of all and singular the goods and chattels, rights and credits, which belonged to the said *James Goodwin* at the time of his death by *James Bond* unadministred, by *William* by divine providence Archbishop of *Canterbury*, primate and metropolitan of all *England*, in due form of law was committed,) or to any of them, hath not paid, but the same to the said *James Goodwin* in his life-time, or to the said *James Bond* in his life-time, or to the same *Elizabeth* after the death of the said *James Bond*, hath altogether denied to pay, and the same to the said *Elizabeth Bond* doth yet deny to pay, and unjustly detains, to the damage of the said *Elizabeth Bond* 20*l.* And therefore she produces the suit, &c. And the same *Elizabeth Bond* produces here in court the letters of administration aforesaid, which the commission of the administration aforesaid in form aforesaid testify, the date whereof is the day and year above said, &c.

Smith against Crawford, Esq;

Midd. to wit. **J**AMES Smith complains of *David Crawford*, Esq; marshal of the *Marshalsea* of the Lord the King before the King himself, being present here in court in his proper person, in a plea that he render to him 35*l.* of lawful money of *Great Britain*, which he owes him and unjustly detains, for this, to wit, that whereas the said *James*, by the name of *J. S.* otherwise, to wit, in *Trinity* term in the 5th year of the reign of the Lord *George* now King of *Great Britain*, &c. in the court of the said Lord the King of the Bench, before *P. King*, Knt. and his companions, then justices of the said Lord the King of the same Bench at *Westminster*, did recover against one *William Granville*

The recovery
in C. B.

Hab' Cor'.

Commitment
thereon in
execution.

The escape.

Granvile otherwise *Glanvile* late of *London*, Esq; 35 *l.* as well for his damages which he had sustained by reason of the non-performance of certain promises and assumptions of the said *William* to the same *James* lately made, as for his costs and charges about his suit in that behalf expended, whereof the said *William* is convicted, as by the record and proceedings thereof remaining in the same court of the said Lord the King of the Bench more fully is manifest and appears: And afterwards, to wit, on the 23d day of *December* in the sixth year of the reign of the said Lord the now King, by virtue of a certain writ of the said now Lord the King to have the body with the cause out of the court of the said Lord the King before the King himself, being at *Westminster* aforesaid in the county of *Middlesex* aforesaid, duly issued, bearing date at *Westminster* 28th day of *November* in the fifth year aforesaid, to the then mayor, aldermen and sheriffs of *London* directed, the said *William* was brought in custody by *J. E. Bart.* and *J. T. Knt.* being then sheriffs of *London* aforesaid, before *R. E. Knt.* one of the justices of the said Lord the King assigned to hold pleas in the court of the said Lord the King before the King himself, at his chamber situate in *Serjeants-Inn* in *Chancery-lane*, *London*, in the parish of *St. Dunstan* in the *West* in the ward of *Farringdon Without*, and then and there by the return of the said writ of *Ha' Cor'* was charged among other things in execution at the suit of him the said *James Smith*, for the damages, costs and charges aforesaid, and afterwards, to wit, the same 23d day of *December* in the year aforesaid, at *London* aforesaid in the parish aforesaid, was by the same justice committed to the custody of the marshal of the *Marshalsea* of the said Lord the King before the King himself, charged among other things in execution for the damages, costs and charges aforesaid, as by the record of the said writ to have the body of the said *William* and the return thereof, and the commitment of the said *William* in execution, remaining filed in the court of the said now Lord the King before the King himself, more fully is manifest and appears: By virtue of which said commitment the said *David C.* being then and yet as aforesaid marshal of the *Marshalsea* aforesaid, the said *William* into his custody then and there received, and him the said *William* in execution for the damages, costs and charges aforesaid, under his custody by virtue of the same commitment had and detained; and the said *William* being in the custody of the said *David C.* marshal of the *Marshalsea* aforesaid, in execution for the damages, costs and charges aforesaid, in form aforesaid, the said *David C.* afterwards, to wit, 24th day of *December* in the sixth year of the reign of the said now Lord the King, he the said *David C.* being then and yet, as aforesaid, marshal of the *Marshalsea* aforesaid, at *Westminster* aforesaid in the county of *Middlesex* aforesaid, the said *W. Granvile* otherwise *Glanvile* out of the custody of him the said *David C.* freely and voluntarily suffered to escape and go at large where the same *William* pleased, without the licence and against the will of him the said *James Smith* (the said *James* being then or yet not satisfied or paid the damages, costs and charges aforesaid, or any part thereof); whereby an action accrued to the said *James* to demand and have of the said *David Crawford* the said 35 *l.* Nevertheless the said *David*, altho' often required, &c. the said 35 *l.* to the same *James* hath not yet paid, but hath hitherto altogether denied, and yet doth deny to pay him the same, to the damage of the said *James* 20 *l.* And therefore he produces the suit, &c.

The defendant pleaded the general issue; the plaintiff obtained a verdict, and the marshal paid the money.

Dolwer.

Dower.

Holmden, widow, against Gregory.

Kent, to wit. **J**OAN Holmden, widow, who was the wife of William Holmden, by J. B. Dower of the her attorney demands against Mary Gregory, spinster, the moiety of one moiety of gavelkind lands. messuage, one barn, one stable, one garden, three orchards, 30 acres of land, 15 acres of meadow, 15 acres of pasture, and two acres of wood with the appurtenances in *Chislehurst* and *Footscray*, as the dower of the said Joan of the endowment of the said William her late husband, by the writ of the Lord the King of dower, whereof she hath nothing, &c. And that the tenements aforesaid with the appurtenances are of the tenure and nature of gavelkind, and according to the custom in the county aforesaid from time immemorial used and approved, women, who are dowable of tenements held in gavelkind, after the death of their husbands ought to be endowed of the moiety of the same tenements with the appurtenances, &c.

Spiller and Andrew.

Otherwise as it appears in *Trinity* term last past in the Roll 1875, it is contained thus: Dower of the *Dorset, to wit, Brent Reynell Spiller, Esq; and Mary his wife* (who was the wife of third part of a Solomon Andrew deceased) by W. B. their attorney demand against Sarab Andrew the third messuage, &c. part of 32 messuages, four stables, one garden, four orchards, 57 acres of meadow, 53 acres of pasture, and 6 l. 1 s. 4 d. rent, with the appurtenances in the borough of *Lyme Regis* Parl. Rep. 69. and *Colway* in the parish of *Lyme Regis*, and *Catherson Lewson* in the parish of *Whitchurch*, 72. 467. 489, which they claim as her dower of the endowment of the said Solomon her late husband, by 494. the writ of the Lord the King of dower, whereof she hath nothing, &c.

And the said Sarab by J. E. who is admitted by the court of the Lord the King here Bar by guar- to prosecute for the same Sarab who is under age, as guardian of the said Sarab, comes and dian, Ready to says, that she from the time of the death of the said Solomon late husband, &c. always render, &c. hitherto was and yet is ready to render to the said Mary her dower aforesaid: And this she is ready to verify: Wherefore she prays judgment if the said Brent Reynell Spiller and Mary ought to have any damages against her by reason of the detention of her dower aforesaid, &c. And upon this the said Brent Reynell Spiller and Mary pray leave to imparl Imparlance. thereto here until from the day of St. Michael in three weeks; and they have, &c. The same day is given to the said Sarab here, &c. On which day here come the said Brent Reynell Spiller and Mary by their attorney aforesaid, and the said Sarab by her guardian aforesaid; and the said Brent Reynell Spiller and Mary farther pray leave to imparl thereto here until in the Octave of St. Hillary; and they have, &c. The same day is given to the said Sarab here, &c. On which day here come the said Brent Reynell Spiller and Mary by their attorney aforesaid, and the said Sarab by her guardian aforesaid: And because the said Brent Reynell Spiller and Mary do not deny the plea Judgment to aforesaid of the said Sarab, therefore it is considered, that the said Brent Reynell Spiller recover seisin, and Mary recover their seisin against the said Sarab of the third part aforesaid And no a- with the appurtenances, and nothing of amercement of the said Sarab, because she come the first day by summons, &c. And upon this the same Brent Reynell Spiller and Mary because, &c.

Mary say, that the said *Solomon*, late husband, &c. died seised of the tenements aforesaid with the appurtenances whereof, &c. in his demesne as of fee, and pray the writ of the Lord the King as well to cause them to have full seisin of the 3d part aforesaid with the appurtenances, as to inquire of damages, &c. And because by the confession of the said *Sarah* above made it appears to the court here, that the same *Sarah* always from the death of the said *S.* until the day of the issuing of the original writ of them the said *Brent Reynell Spiller* and *M.* to wit, the 30th day of *May* in the 1st year of the reign of the now Lord the King, was ready to render to the said *M.* her dower of the tenements aforesaid with the appurtenances; wherefore the same *Brent Reynell Spiller* and *M.* ought not to recover any value of the 3d part of those tenements, nor their damages by reason of the detention of her dower aforesaid, from the death of the said *S.* late husband of the said *M.* until the day of the issuing of the original writ of them the said *Brent Reynell Spiller* and *M.* against the said *Sarah*: And it seems to the said justices here, that the said *Brent Reynell Spiller* and *M.* ought to recover against the said *Sarah* as well the value of the 3d part of the tenements aforesaid with the appurtenances, as their damages by reason of the detention of her dower aforesaid from the said day of the issuing of the original writ aforesaid, if, &c. Therefore the sheriff is commanded to cause the said *Brent Reynell Spiller* and *M.* to have their full seisin of the third part of the tenements aforesaid with the appurtenances, and to inquire diligently by the oaths of good and lawful men of his county if the said *S.* died seised of the tenements aforesaid with the appurtenances in his demesne as of fee-simple or of fee-tail; and if by that inquisition he shall so find, then by their oaths to inquire diligently how much the tenements aforesaid with the appurtenances are worth by the year in all issues beyond reprises, according to the true value of the same, as also what damages the said *Brent Reynell Spiller* and *M.* have sustained as well by reason of the detention of her dower aforesaid from the said day of the issuing of the original writ aforesaid beyond the value aforesaid, as for their costs and charges by them about their suit in this behalf expended: And the inquisition which he shall so make thereof to certify here from the day of the Holy Trinity in three weeks, &c. under the seal, &c. and the seals, &c. On which day here come the said *Brent Reynell Spiller* and *M.* by their attorney aforesaid; and the sheriff did nothing therein, nor returned the writ: Therefore as before let another writ be made to him thereof in form aforesaid, returnable here from the day of *St. Michael* in three weeks, &c. On which day here come the said *Brent Reynell Spiller* and *M.* by their attorney aforesaid: And the sheriff, to wit, *Nicholas Cary*, Esq; now returns the writ aforesaid, together with a certain schedule, and a certain inquisition before him by the oaths of twelve, &c. taken, to the same writ annexed, in these words, to wit, *Dorset*, to wit, An inquisition indented, taken at *Lyme Regis* in the county aforesaid on the fifth day of *September* in the third year of the reign of our Lord *George* now King of *Great Britain*, &c. and in the year of the Lord 1716, before me *Nicholas Cary*, Esq; sheriff of the county aforesaid, by virtue of the writ of the said Lord the King to me directed, and to this inquisition annexed, by the oaths of *S. Courtney*, *J. Gundry*, &c. good and lawful men of my county, who say upon their oaths, that the within named *Soloman Andrew* died seised in his demesne as of fee of and in one messuage called the *George Inn*, one stable and one close of meadow called, &c. (naming several particulars) situate, lying and being in *Catherston Lawton* in the parish of *Whitchurch* in the county aforesaid, and of and in 5 l. 19 s. 4 d. issuing from and out of the following messuages in *Lyme Regis* aforesaid, to wit, of 10 s. rent issuing from and out of a messuage in the tenure of *A. R.* of 10 s. rent issuing from and out of a messuage in the tenure of *J. T.* of 10 s. rent issuing from and out of a messuage in the tenure of *F. S.* of 10 s. rent issuing from and out of a messuage in the tenure of *J. H.* of 10 s. rent issuing from and out of a messuage in the tenure of *R. S.* of 10 s. rent issuing from and out of a messuage in the tenure of *W. P.* of 10 s. rent issuing from and out of a messuage in the tenure of *G. R.* of 8 s. rent issuing from and out of a messuage in the tenure of *J. P.* of 6 s. 1 d. rent issuing from and out of a messuage in the tenure of *R. D.* of 8 s. rent issuing from and out of a messuage in the tenure of *R. C.* of 1 l. rent issuing from and out of a messuage in the tenure of *S. O.* and of and in the reversion of the same messuages after the expiration or sooner determination of certain terms of years thereof respectively granted; and that the said *S.* did not die seised of any other messuages, lands or tenements, to the knowledge of the same jurors: And the jurors aforesaid on their oaths farther say, that the tenements and premisses above named with the appurtenances are of the clear yearly value, in all issues beyond reprises, of 60 l. 11 s. 3 d. and that the said *Brent Reynell Spiller*, Esq; and *M.* his wife, in the writ aforesaid named, have sustained damages by reason of the detention of the dower within specified from the said day of the issuing of the writ original within mentioned beyond the value aforesaid to 10 l. 5 s. 11 d. and for their costs and charges by them about their suit in that behalf expended to 10 s. In witness whereof as well I the said sheriff as the jurors aforesaid have to this inquisition interchangeably set our seals, the day, year and place

place above said: And I do farther humbly certify to the justices of the Lord the King at *Westminster*, that by virtue of the writ afore said I did on the 12th day of *October* in the 3d year of the reign of the said now Lord the King, &c. cause the said *Brent* and *Mary* to have full seisin of the 3d part of the tenements and rents afore said with the appurtenances, to wit, of the said messuage with the appurtenances called the *George-Inn* in the tenure of *A. B.* the said messuage with the appurtenances, &c. of the said 10 s. rent issuing from and out of the said messuage in the tenure of *A. R.* of the said 10 s. rent issuing from and out of the said messuage in the tenure of *J. T.* of the said 10 s. rent issuing from and out of the said messuage in the tenure of *F. S.* of 9 s. 9 d. $\frac{1}{2}$ rent, parcel of the said 10 s. rent issuing from and out of the said messuage in the tenure of *J. H.* and also of the reversion of the four messuages last mentioned, after the expiration or sooner determination of the said terms of years thereof respectively granted with the appurtenances, to hold to the said *Brent* and *Mary* in severalty by metes and bounds as the dower of the said *Mary*, of the endowment of the said *Solomon Andrew* her late husband, as by the writ afore said I am commanded.

Nicholas Cary, Esq; Sheriff.

And because the justices here will advise themselves of and upon the premisses before they give judgment thereon, day is given to the said *Brent Reynell Spiller* and *Mary* here until in the Octave of *St. Hillary* to hear their judgment thereon, because the same justices here thereof not yet, &c. On which day here come the said *Brent Reynell Spiller* and *Mary* by their attorney afore said: And upon this the premisses being seen and by the justices here more fully understood, it is considered, that the said *Brent Reynell Spiller* and *Mary* recover against the said *Sarah* as well the value of the third part afore said from the said day of the issuing of the original writ afore said, which amounts to 31 l. 13 s. 4 d. as their damages afore said to 10 l. 15 s. 11 d. by the inquisition afore said in form afore said found, as also 12 l. 10 s. 9 d. to the same *Brent Reynell Spiller* and *Mary* at their request for their costs and charges afore said by them about their suit in this behalf expended, by the court here of increase adjudged, which said value and damages in the whole amount to 55 l. &c.

Ejectment.

Ejectment.

Smith against Farmer.

Ejectment for
a messuage,
cottage, land,
meadow and
pasture, moiety
of a manor,
fair and market,
toll, &c. thereto belonging.

Leicester, to wit. **W**illiam Farmer late of *Glooston* in the county aforesaid, yeoman, was attached to answer *George Smith* in a plea, why with force and arms into five messuages, 20 cottages, 400 acres of land, 200 acres of meadow and 400 acres of pasture, with the appurtenances, in *Welham Slawston*, *Harborowe* and *Bowden Magna*, and the moiety of the manor of *Harborowe* aforesaid with the appurtenances, and also the moiety of the fairs and markets of *Harborowe* aforesaid, of all tolls, stallages, piccages, pontages and other perquisites, profits, customs and privileges to the same manor, fairs and markets belonging and appertaining, which *John Dowley* demised to the same *George* for a term which is not yet past, he entred, and from his farm aforesaid ejected him, and committed other outrages upon him, to the great damages of the said *George*, and against the peace of the Lord and Lady the now King and Queen, &c. And whereon the same *George* by *W. P.* his attorney complains, that whereas the said *John* on the 10th day of *October* in the third year of the reign of the Lord and Lady the now King and Queen, &c. at *Welham* did demise to the same *George* the tenements, premisses and moiety aforesaid with the appurtenances; To have and to hold to the same *George* and his assigns from the 29th day of *September* then last past unto the end and term of seven years from thence next ensuing and fully to be compleat and ended: By virtue of which said demise the same *George* into the tenements, premisses and moiety aforesaid with the appurtenances entred, and was thereof possessed; and he the said *George* being so thereof possessed, the said *William Farmer* afterwards, to wit, on the said 10th day of *October* in the third year of the reign of the said now Lord and Lady the King and Queen, &c. aforesaid, with force and arms into the tenements, premisses and moiety aforesaid with the appurtenances, which the said *John* to the same *George* in form aforesaid demised for the term aforesaid, which is not yet past, entred, and him from his farm aforesaid ejected, and other outrages, &c. to the great damage, &c. and against the peace, &c. whereby he says that he is prejudiced, and hath damage to the value of 40*l.* And therefore he produces the suit, &c.

Underbill against Durham.

Declaration
for the mesne
profits in an
ejectment
tried at bar.
M. 11 W. 3.
Pract. Reg.
499.

Worcester, to wit. **J**ohn Durham late of *Willersey* in the county of *Gloucester*, yeoman, was attached to answer *John Underbill* in a plea, why with force and arms three messuages, 500 acres of land, 200 acres of meadow, and 200 acres of pasture with the appurtenances in *Treddington* in the county of *Worcester* aforesaid, he broke and entred, and him the said *John Underbill* from the possession and occupation of the same tenements so expelled and amoved for a long time kept out, and also all the issues and profits of the same tenements of the yearly value of 200*l.* for all the time aforesaid, to the proper use of him the said *John Durham* received and had, and committed other outrages upon him, to the great damage of the said *John Underbill*, and against the peace of the now Lord the King, &c. And whereon the same *John Underbill* by *J. S.* his attorney complains, that the said *John Durham* on the first day of *June* in the tenth year of the reign of the now Lord the King, with force and arms three messuages, five hundred acres of

of land, 200 acres of meadow, and 200 acres of pasture with the appurtenances in *Treddington* in the county of *Worcester*, broke and entered, and him the said *John Underbill* from the possession and occupation of the same tenements expelled and amoved, and the same *John Underbill* from the possession and occupation of the said tenements so expelled and amoved for a long time, to wit, from the said first day of *June* in the 10th year abovesaid until the day of the issuing of the original writ of him the said *John Underbill*, kept out, and also all the issues and profits of the same tenements of the yearly value, &c. for all the time aforesaid, to the proper use of him the said *John Durham* received and had, and other outrages, &c. to the great damage, &c. and against the peace, &c. whereby he says that he is prejudiced, and hath damage to the value of 40*l*. And therefore he produces the suit, &c.

And the said *John Durham* by *J. Lilly* his attorney comes and defends the force and in-
jury when, &c. prays oyer of the writ aforesaid; and it is read to him in these words, to wit, *William, &c.* To the Sheriff of *Worcester* greeting: If *John Underbill* shall give you security to prosecute his suit, then put by surety and safe pledges *John Durham* late of *Willersey* in the county of *Gloucester*, yeoman, that he be before us from the day of *Easter* in one month wherever we shall then be in *England*, to shew why with force and arms three messuages, 500 acres of land, 200 acres of meadow, and 200 acres of pasture with the appurtenances in *Treddington* in your county, he broke and entred, and him the said *John Underbill* from the possession and occupation of the said tenements expelled and amoved, and the same *John Underbill* from the possession and occupation of the said tenements so expelled and amoved for a long time kept out, and also all the issues and profits of the same tenements of the yearly value of 200*l*. for all the time aforesaid to the proper use of him the said *John Durham* received and had, and committed other outrages upon him, to the great damage of him the said *John Underbill*, and against our peace; and have there the names of the pledges, and this writ. *Witness* ourself at *Westminster* the 12th day of *April* in the 12th year of our reign: Which being read and heard, the same *John Durham* prays judgment of the writ aforesaid, because he says, that there is not any such form of a writ of trespass in the register of writs as the form of the writ aforesaid, and that that writ varies from the said register of writs in this, that it doth not appear that the messuages and lands were the messuages and lands of the said *John Underbill*: And this he is ready to verify: Wherefore he prays judgment of the writ aforesaid, and that the said writ may be quashed, &c. *This plea on demurrer was over-ruled.*

No such writ in the Register.

And the said *John Durham* by *J. L.* his attorney comes and defends the force and in-
jury when, &c. And as to the coming with force and arms the said *John Durham* says that he is not guilty thereof: And of this he puts himself upon the country: And the said *John Underbill* thereof likewise, &c. And as to the residue of the trespass aforesaid above supposed to be committed, the same *John Durham* says, that the said *John Underbill* ought not to have or maintain his action aforesaid thereof against him, because he says, that the messuages aforesaid, as also the places aforesaid in which the trespass aforesaid is above supposed to be committed, are and at the time when the said trespass is supposed to be committed were one messuage called *White-house*, one other messuage called *Black-house*, one other messuage called *Red-house*, and 500 acres of land called *Black-lands*, 200 acres of meadow called *White-lands*, and 200 acres of pasture called *Red-lands*, with the appurtenances in *Treddington* aforesaid in the county aforesaid; which said tenements with the appurtenances are and at the said time when, &c. and also for all the time aforesaid in the declaration aforesaid mentioned, were the proper grounds and freehold of him the said *John Durham*: Wherefore the said *John Durham* at the time when, &c. and also for all the time aforesaid in the declaration aforesaid mentioned, the said several messuages and parcels of land, meadow and pasture, as the proper messuages, lands, meadow and pasture of him the said *John Durham*, being in the possession of the said *John Durham*, broke and entred, and the possession and occupation of the same for all the time aforesaid in the declaration aforesaid mentioned kept, and the issues and profits of the same messuages and tenements for all the time aforesaid in the declaration aforesaid mentioned received and had, as he lawfully might: And this the same *John Durham* is ready to verify: Wherefore he prays judgment if the said *John Underbill* ought to have or maintain his action aforesaid thereof against him, &c.

Common bar because the plaintiff doth not name the closes. 2 Co. 18. b. Pract. Reg. 596, 602.

Edw. Northey.

Lucas and Legawe.

*Nil dicit in
ejectment.
Judgment to
recover the
term and da-
mages.
The damages
remitted.*

*Writ of pos-
session award-
ed.*

AND the said *John* by *B. H.* his attorney comes and defends the force and injury when, &c. and says nothing in bar or preclusion of the action aforesaid of him the said *Lawrence*, whereby the same *Lawrence* remains against the said *John* therein undefended, &c. Therefore it is consider'd, that the said *Lawrence* recover against the said *John* his term yet to come of and in the rectory and tenements aforesaid with the appurtenances: It is also considered, that the said *Lawrence* ought to recover his damages against the said *John* by reason of the premises: And upon this the said *Lawrence* freely here in court remits to the said *John* all and all manner of damages, costs and charges, which he the same *Lawrence* hath sustained by reason of the premises, or which in this behalf may be adjudged, and all and all manner of judgments and executions to be had of or for the same; therefore the said *John* from those damages, costs and charges, may be quiet, &c. Whereupon the sheriff is commanded without delay to cause the said *Lawrence* to have his possession of his term aforesaid yet to come of and in the rectory and tenements aforesaid with the appurtenances, and to certify how that precept shall be executed to the Lady the Queen from the day of *Easter* in 15 days wherever, &c. The same day is given to the said *Lawrence*, &c.

Nil dicit.

Otherwise.

*Possession a-
warded.*

AND the said *Lawrence* by *B. H.* his attorney comes and defends the force and injury when, &c. and says nothing in bar or preclusion of the action of the said *John*, but hath made default, whereby the same *John* remains against the said *Lawrence* undefended, &c. Therefore it is considered, that the said *John* ought to recover his term aforesaid yet to come of and in the tenements aforesaid with the appurtenances, and his damages by reason of the premises against the same *Lawrence*: Whereupon the sheriff is commanded to cause without delay the said *John* to have his possession of his term aforesaid yet to come of and in the tenements aforesaid with the appurtenances, and to certify how that precept shall be executed to the said Lord the King at *Westminster* on day next after The same day, &c.

Yorke against Jordan and others.

Hill. 10 W. 3. Roll 1478. C. B.

*Ejectment for
lands in Kent
on the demise
of Ri. Strong-
bill.
Parl. Rep.
104, 108,
140, 154.*

J^{OHN} *Jordan*, late of *Lydd* in the county aforesaid, carpenter, *John Mittell*, late of the same, graser, and *Thomas Hamond*, late of the same, butcher, were attached to answer *James Yorke*, Gent. in a plea, why they with force and arms one messuage, two barns, and 55 acres of fresh marsh with the appurtenances in *Lydd*, which *Richard Strongbill*, Gent. demised to the same *James* for a term which is not yet past, entred, and him from his farm aforesaid ejected, and committed other outrages upon him, to the great damages of the said *James*, and against the peace of the now Lord the King, &c. And whereon the same *James* by *N. N.* his attorney complains, that the said *Richard* on the 7th of *October* in the 9th year of the reign of the now Lord the King, at *Maidstone* in the county aforesaid, demised to the same *James* the tenements aforesaid with the appurtenances; To have and to hold the tenements aforesaid, with the appurtenances, to the same *James* and his assigns from the 29th day of *September* then last past unto the end and term of five years from thence next ensuing and fully to be compleat and ended: By virtue of which demise the same *James* into the tenements aforesaid with the appurtenances entred, and was thereof possessed; and he the said *James* being so thereof possessed the said *John Jordan*, *John Mittell* and *Thomas*, afterwards, to wit, the same 7th day of *October* in the 9th year abovesaid with force and arms, &c. into the tenements aforesaid with the appurtenances, which the said *Richard* to the same *James* demised in form aforesaid for the term aforesaid, which is not yet past, entred, and him the said *James* from his farm aforesaid ejected, and other outrages, &c. to the great damage, &c. and against the peace, &c. whereby he says that he is prejudiced, and hath damage to the value of 20*l.* And therefore he produces the suit, &c.

Not guilty.

And the said *John Jordan*, *John Mittell* and *Thomas*, by *J. W.* their attorney come and defend the force and injury when, &c. and say, that they are not guilty of the trespass and ejectment aforesaid, as the said *James* above against them complains: And of this they put themselves on the country: And the said *James* likewise: Therefore the sheriff is commanded to cause to come here in the Octave of the Purification of the Blessed *Mary* twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. because

because as well, &c. On which day the jury between the parties aforesaid was put there-
of between them in respite here until this day, to wit, from the day of *Easter* in fifteen
days, unless the justices of the Lord the King, assigned to take assises in the county aforesaid by the form of the statute, &c. on *Tuesday* the 21st day of *March* last past at *Maidstone* in the county aforesaid, had first come: And now here on this day come as well the
said *James* as the said *John Jordan*, *John Mittell* and *Thomas* by their attornies aforesaid: And the said justices of assise before whom, &c. have sent here their record in these words:
Afterwards, the day and year within contained, before *J. Holt*, Knt. chief justice of the Lord the King, assigned to hold pleas before the King himself, *Eldred Lancelot Lee* this time associated to the same *John Holt*, and *Edward Nevill*, Knt. one of the justices of the said Lord the King of the Bench, and *Nicholas Lechmeere*, Knt. one of the Barons of the Exchequer of the said Lord the King, justices of the said Lord the King assigned to take assises in the county of *Kent* by the form of the statute, &c. the presence of the said *Edward Nevill* and *Nicholas Lechmeere* being not expected, by virtue of the writ of the said Lord the King of *Si non omnes*, &c. come as well the within named *James Yorke* as the within written *John Jordan*, *John Mittell* and *Thomas Hammond* by their attornies within contained: And the jurors of the jury, whereof mention is within made, being called likewise come, who being elected, tried, and sworn to say the truth of the within contained, say upon their oath, that long before the within written time of the trespass and ejectment within supposed to be committed, one *John Strongbill*, Esq; was seised of the tenements within written with the appurtenances in the declaration within written mentioned (among others) in his demean as of fee, having issue *Henry* his son and heir apparent in his last will mentioned; and being so thereof seised on the 17th day of *June* in the year of the Lord 1665 made his last will and testament in writing, and by his same last will gave and bequeathed (among other things) in these words following, to wit, *First*, I give and bequeath to my son *Henry Strongbill*, during his natural life, all and every my messuages, lands tenements and hereditaments whatsoever, or of what sort or kind soever, situate, lying and being in the towns, parishes, villages or hamlets of *Ludd*, *New Rumney*, *New Church Hope* and *Riverton*, or any of them, or elsewhere wheresoever in the county of *Kent* (whereof the tenements aforesaid with the appurtenances in the declaration aforesaid mentioned are parcel); And after the decease of my said son *Henry*, I give and bequeath all and singular my said lands, messuages and premises to the first issue male of the body of my said son *Henry* lawfully to be begotten, and to the heirs of the body of such issue male lawfully begotten; And if it shall happen that such issue shall die without heirs of his body begotten as aforesaid, I in like manner give and bequeath all and every my said messuages, lands, tenements and hereditaments aforesaid, to the second issue male of the body of my said son *Henry* lawfully to be begotten, and to the heirs of the body of such second issue male; and for default of such heirs, to the third, fourth, fifth, sixth and seventh, and every issue male of the body of my said son *Henry* begotten as aforesaid, and the respective heirs of their respective bodies lawfully begotten, one after another, as they shall be in seniority of age one before the other, and the elder still to be in order before the younger: And if it shall happen my said son *Henry* shall die without any issue male of his body begotten as aforesaid, I hereby give and bequeath all and every of my said messuages, lands, tenements, hereditaments and premises, to the heirs female of the body of my said Son *Henry* lawfully begotten as aforesaid, and to the heirs of the body of such issue female lawfully to be begotten, to be equally divided amongst such issue female and to their heirs for ever: But if it shall happen my said son *Henry* to die without any issue male or female, then my will and meaning is, and I do give and bequeath all and every my said messuages, lands, tenements, hereditaments and premises, to be equally divided among my three daughters, *Judith Strongbill*, *Bridget Strongbill* and *Constance Strongbill*, and to the heirs of their bodies lawfully to be begotten for ever; as by the last will aforesaid to the jurors aforesaid shewn in evidence more fully appears: And the jurors aforesaid on their oath aforesaid farther say, that the said *John Strongbill* afterwards, to wit, on the first day of *September* in the year of the Lord 1665, of such his estate of and in the tenements aforesaid with the appurtenances (whereof the tenements aforesaid with the appurtenances in the declaration aforesaid mentioned are parcel) died seised; after whose death the said *Henry Strongbill* into the tenements aforesaid with the appurtenances (whereof the tenements aforesaid with the appurtenances in the declaration aforesaid mentioned are parcel) entered, and was thereof seised as the law requires: And the same jurors on their oath aforesaid farther say, that the said *Henry Strongbill* so as aforesaid being seised, and before he had any issue of his body lawfully begotten, to wit, on the 23d day of *October* in the year of the Lord 1676, by a certain indenture made between him the said *Henry Strongbill* of the one part, and *Thomas Short* and *William Norris* of *London*, Gent. of the other part, bearing date the same day and year, in consideration of 5 s. in the indenture aforesaid mentioned to be by the said *T. Short* and

13 E. 1. c. 30.

12 E. 2. c. 4.

14 E. 3. c. 16.

The Postra.

The jury find, that one *John Strongbill* was seised in fee of the premises, and devised them to his son *Henry* for life, remainder to his son in tail, &c.

John Strongbill died seised.

Henry entered, and by lease and release (before issue)

conveyed
them to *Short*
and *Norris* to
the use of
Judith Strong-
bill for her
life, and after
to the use of
Henry in fee.

And for the
cutting off all
estates tail
Short and
Norris shall
permit *Lowe*
to bring a
Præcipe a-
gainst them.

They shall
vouch *Henry*,
who shall
vouch the
common
vouchee.

The uses.

Judith en-
tered.

Writ of entry
sued out a-
gainst *Short*
and *Norris*.

and *William Norris* to him the said *Henry Strongbill* paid, he the said *Henry Strongbill* did demise to the said *Thomas Short* and *William Norris* the tenements aforesaid in the declaration aforesaid mentioned with the appurtenances; To have and to hold to the same *Thomas Short* and *William Norris* from the day next before the day of the date of the said indenture for one whole year from thence next ensuing, as by the indenture aforesaid to the jurors aforesaid in evidence shewn more fully appears: By virtue whereof they the said *Thomas Short* and *William Norris* into the tenements aforesaid with the appurtenances in the declaration aforesaid mentioned entered, and were thereof possessed for the term aforesaid; and being so thereof possessed afterwards, to wit, on the 24th day of the same month of *October* in the year of the Lord last aforesaid, by a certain indenture quadripartite made between him the said *Henry Strongbill* of the first part, the said *Thomas Short* and *William Norris* of the second part, one *William Lowe* of *Chiswicke* in the county of *Middlesex*, Gent. of the third part, and *Judith Strongbill* of *London*, widow, relict of the said *John Strongbill* and mother of the said *Henry Strongbill*, of the fourth part, bearing date the same day and year, he the said *Henry Strongbill* granted, remised, released, quit-claimed and confirmed to the said *Thomas Short* and *William Norris* and their heirs, then being in their actual possession (among other things) the tenements aforesaid with the appurtenances in the declaration aforesaid mentioned; To have and to hold to the said *Thomas Short* and *William Norris*, their heirs and assigns, to the use of the said *Judith Strongbill* and her assigns, for and during the term of her natural life; and after the decease of the said *Judith*, to the use of the said *Henry Strongbill*, his heirs and assigns for ever: And the same jurors on their oath aforesaid farther say, that in the said indenture last mentioned is contained this clause following, to wit, And for the better corroboration of these presents, and for the barring, cutting off, and wholly extinguishing of all and all manner of Estates-tail, and other estates and remainders limited, made, done or executed, of, in or concerning the premises, or any part thereof, by the said *John Strongbill* deceased, or by any other person or persons, it is covenanted, concluded and fully agreed by and between all the said parties to these presents, that the said *Thomas Short* and *William Norris*, and their heirs, shall and will permit and suffer the said *William Lowe* to bring and pursue against them the said *Thomas Short* and *William Norris* one or more writ or writs of entry on *Disseisin in le post*, returnable before his Majesty's justices of the court of Common Pleas at *Westminster* before the end of this present *Michaelmas* term, by which he the said *William Lowe* shall demand against them the said *Thomas Short* and *William Norris* the said messuages, closes, lands, tenements, wood-grounds and premises aforesaid by such name or names, Quantities, Qualities and other distinctions and descriptions as to the said *William Lowe* shall seem meet; to which said writ or writs the said *Thomas Short* and *William Norris* shall appear gratis, or by their attorney in that behalf to be lawfully authorized, and shall enter into the warranty, and shall vouch to warranty the said *Henry Strongbill*, who shall also appear and enter into the warranty of the said premises, and shall vouch over the common vouchee, which common vouchee shall also appear to the warranty for the said premises, and after make default, so that a good and perfect common recovery with double voucher may be duly had and executed of the said messuages, lands and tenements, according to the usual and common order and form of common recoveries for assurance of lands in such cases used: And lastly, it is agreed by all the said parties to these presents, and hereby declared to be their true intent and meaning, that the said common recovery so or in any other manner to be had and suffered of the premises, or of any part thereof, shall be and enure, and shall be construed, deemed and taken to be and enure to the uses, intents and purposes herein before mentioned and declared, and to and for no other use, intent or purpose whatsoever; as by the indenture aforesaid to the jurors aforesaid in evidence shewn more fully appears: By virtue of which said indentures of demise and release last mentioned the same *Judith* into the tenements aforesaid with the appurtenances in the declaration aforesaid mentioned entered, and was thereof seised as the law requires: And the jurors aforesaid on their oath aforesaid farther say, that in pursuance of the indenture last mentioned the said *William Lowe*, Gent. on the 23d day of the same *October*, out of the court of Chancery of the Lord *Charles* the Second, late King of *England*, &c. prosecuted against the said *Thomas Short* and *William Norris* a certain writ of the said Lord the King of entry on *Disseisin in le post*, returnable before the justices of the said Lord the King of the Bench at *Westminster* in the county of *Middlesex* on the morrow of *St. Martin* then next following, by which said writ the said *William Lowe* demanded against the said *Thomas Short* and *William Norris* the tenements aforesaid with the appurtenances in the said declaration mentioned (among other things) by the name of three messuages, three gardens, and ten acres of fresh marsh

marth with the appurtenances in *New Runney, Old Runney, Ludd, Runney Marsh, New Church Hope, All Saints and Riverton*, as his right and inheritance; and in which the same *Thomas Short* and *William Norris* had not had entry but after the disseisin which *Hugh Hunt* thereof unjustly and without judgment had made on the said *William Lowe* within 30 years, &c. And whereon he said, that he himself was seised of the tenements aforesaid with the appurtenances in his demesne as of fee and right in the time of peace in the time of the said late Lord the King, by taking thereof the esplees to the value, &c. and in which, &c. And therefore he produced the suit, &c. And the said *Thomas Short* and *W. Norris* came and defended his right when, &c. And called thereof to warranty the said *Henry Strongbill*, who was then present in court in his proper person, and freely warranted to them the tenements aforesaid with the appurtenances, &c. And upon that the said *W. Lowe* demanded against the said *Henry*, tenant by his warranty, the tenements aforesaid with the appurtenances in form aforesaid: And whereon he said, that he himself was seised of the tenements aforesaid with the appurtenances in his demesne as of fee and right in the time of peace in the time of the late Lord the King, by taking thereof the esplees to the value, &c. and in which, &c. And therefore he produced the suit, &c. And the said *Henry*, tenant by his warranty, defended his right when, &c. and farther called thereof to warranty *J. Wheeler*, who likewise was then present in court in his proper person, and freely warranted to him the tenements aforesaid with the appurtenances, &c. And thereupon the said *W. Lowe* demanded against the said *J. Wheeler*, tenant by his warranty, the tenements aforesaid with the appurtenances in form aforesaid, &c. And whereon he said, that he himself was seised of the tenements aforesaid with the appurtenances in his demesne as of fee and right in time of peace in the time of the said late Lord the King, by taking thereof the esplees to the value, &c. and in which, &c. And therefore he produced the suit, &c. And the said *J. Wheeler*, tenant by his warranty, defended his right when, &c. And said, that the said *Hugh* did not disseise the said *W. Lowe* of the tenements aforesaid with the appurtenances, as the said *William* by his writ and count aforesaid above supposed: And upon this he put himself on the country, &c. And the said *W. Lowe* prayed leave to imparl thereto, and had, &c. And afterwards the said *W. Lowe* came back into court in the same term in his proper person; and the said *J. Wheeler*, altho' solemnly called, did not come back, but departed in contempt of the court and made default: Therefore it was considered that the said *W. Lowe* should recover his seisin against the said *Thomas* and *W. Norris* of the tenements aforesaid with the appurtenances, and that the same *Thomas* and *W. Norris* should have of the land of the said *Henry* to the value, &c. And that the same *Henry* should have over of the land of the said *J. Wheeler* to the value, &c. and that the said *J. Wheeler* should then be in mercy, &c. And thereupon the said *W. Lowe* prayed the writ of the said late Lord the King to the sheriff of the county aforesaid to be directed, to cause him to have full seisin of the tenements aforesaid with the appurtenances; and it was granted him returnable then without delay, &c. Afterwards, to wit, on the 28th day of November in that same term, came then into court the same *W. Lowe* in his proper person; and the sheriff, to wit, *J. Cutler*, Knt. and Bart. then returned, that he, by virtue of that writ to him directed, on the 23d day of November then last past, had caused the said *W. Lowe* to have full seisin of the tenements aforesaid with the appurtenances, as by that writ he was commanded: And the same jurors farther on their oath aforesaid say, that afterwards, to wit, on the 1st day of May 1678, and not before, the said *Henry Strongbill* had issue of his body lawfully begotten the within named *Richard Strongbill* the lessor of the plaintiff his first begotten and only son: And the same jurors on their oath aforesaid farther say, that the said *Judith* afterwards, to wit, on the 1st day of May 1679 died so as aforesaid seised; after whose death the said *Henry* into the tenements aforesaid with the appurtenances whereof, &c. entered, and was thereof seised as the law requires: And afterwards, to wit, on the 10th day of August 1681, the said *Henry* being so as aforesaid seised by a certain indenture made between him the said *Henry Strongbill* of the one part, and *John* lease. *Sympson* of the Inner Temple, London, Knt. of the other part, for and in consideration of 5*l.* of lawful money of England in the indenture aforesaid mentioned to be by the said *John Sympson* to him the said *Henry Strongbill* paid, he the said *Henry Strongbill* did demise, bargain and sell to the said *John Sympson* the tenements aforesaid with the appurtenances in the declaration aforesaid mentioned (among other things); To have and to hold to the said *John Sympson* from the feast of St. John the Baptist last past before the date of the indenture aforesaid for the term of six months from thence next ensuing, as by the indenture aforesaid to the jurors aforesaid in evidence shewn more fully appears: By virtue whereof he the said *John Sympson* into the tenements aforesaid with the appurtenances in the declaration aforesaid mentioned entered, and was thereof possessed for the same term; and being so thereof possessed afterwards, to wit, on the 11th day of the same month of August in the year of the Lord last aforesaid, by a certain indenture made between him the said *Henry Strongbill* of the one part, and the said *John Sympson* of the other part, bearing date the same day and year, in consideration of the sum of 900*l.* of lawful money of England by the said *John Sympson* to him the said *Henry Strongbill* paid, he the said *Henry Strongbill*

They appear
and vouch
Henry.

who vouches
the common
vouches.

Writ of seisin
awarded;

returned.

Then Henry
had issue the
lessor of the
plaintiff.
Judith died
and Henry en-
tered, and
conveyed to
Sympson by
a lease and re-

did grant, bargain, sell, release and confirm to the said *John Sympson* and his heirs (then being in his actual possession, among others,) the tenements aforesaid with the appurtenances in the declaration aforesaid mentioned; To have and to hold to the said *John Sympson*, his heirs and assigns, to the only proper use and behoof of the said *John Sympson*, his heirs and assigns for ever: And the jurors aforesaid on their oath aforesaid farther say, that in the said indenture last mentioned are contained the clauses following, to wit, And the said *Henry Strongbill* for himself, his heirs, executors and administrators, and for every of them, doth farther covenant, promise and grant to and with the said *Sir John Sympson*, his heirs and assigns, for the farther and better granting and assuring the said several pieces and parcels of fresh marsh-grounds, lands, wood-grounds, tenements and hereditaments, and all other the premisses, and every part and parcel thereof, with their and every of their appurtenances, unto the said *Sir John Sympson*, his heirs and assigns, for the intent aforesaid, that he the said *Henry Strongbill* shall and will before the end of *Michaelmas* term next ensuing the date of these presents, upon the request of the said *Sir John Sympson*, and at the costs and charges of him the said *Henry Strongbill*, suffer or cause to be suffered one or more good and perfect common recovery or recoveries before the judges of his Majesty's court of Common Pleas at *Westminster*, according to the usual and common order and form of common recoveries for assurances of lands in such cases used; and also that he the said *Henry Strongbill* shall and will from time to time, and at all times hereafter within the space of one year next ensuing the date of these presents, and upon the request of the said *Sir John Sympson*, and at the costs and charges in the law of him the said *Henry Strongbill*, his heirs and assigns, make, do, acknowledge, levy, suffer and execute, or cause to be made, done, acknowledged, levied, executed and suffered, all and every such farther and other lawful and reasonable act and acts, deed and deeds, conveyances and assurances in the law whatsoever, for the farther and better granting, conveying and assuring the said several pieces or parcels of fresh marsh-grounds, lands, wood-grounds, tenements and hereditaments, and all other the premisses, and every part and parcel thereof, with their and every of their appurtenances, unto the said *Sir John Sympson*, his heirs and assigns for ever, be it by one or more fine or fines, common recovery or recoveries, with single or double voucher or vouchers, feoffment, release with warranty, or by any other lawful ways or means whatsoever, as by the said *Sir John Sympson*, his heirs or assigns, or by his or their counsel learned in the law, shall be reasonably devised, advised or required, so that the party or parties, that by the force of this covenant shall be to make such farther assurances, be not for the doing thereof compelled or compellable to travel or go farther than the cities of *London* or *Westminster* for doing of the same; which said fine or fines, recovery or recoveries, conveyances and assurances of the premisses heretofore made, or hereafter to be made of the premisses, with the appurtenances, shall be and enure, and shall be adjudged, deemed, construed and taken to be and enure, to the only use and behoof of the said *Sir John Sympson*, his heirs and assigns for ever, and to and for no other use, intent or purpose whatsoever, as by the indenture aforesaid to the jurors aforesaid in evidence shewn more fully appears: And the jurors aforesaid on their oath aforesaid farther say, that one *Francis Twysden*, Esq; out of the court of Chancery of the Lord *Charles* the Second, late King of *England*, prosecuted against him the said *John Sympson* a certain writ of the said Lord the King of entry on *Disseisin in le post*, returnable before the justices of the said Lord the King of the Bench at *Westminster* in the county of *Middlesex* from the day of *St. Michael* in three weeks then next following, by which said writ the said *Francis Twysden* demanded against the said *John Sympson* the tenements aforesaid with the appurtenances in the declaration aforesaid mentioned (among others) by the name of one messuage, one garden, 120 acres of land, 30 acres of wood, 120 acres of fresh marsh with the appurtenances in the parish of *New Church*, *Ludd* and *Riverton*, as his right and inheritance, and into which the said *John* had not entry but after the disseisin, which *Hugh Hunt* thereof unjustly and without judgment made on the said *Francis* within thirty years, &c. And whereon he said, that he himself was seised of the tenements aforesaid with the appurtenances in his demesne as of fee and right in the time of peace in the time of the said then Lord the King, by taking thereof the esplees to the value, &c. And in which, &c. And therefore he produced the suit, &c. And the said *John* in his proper person came and defended his right when, &c. and called thereof to warranty the said *Henry Strongbill*, Gent. who was then present in court in his proper person, and freely the tenements aforesaid with the appurtenances to the

A covenant to
suffer recovery
thereupon.

The uses.

Recovery sued
against *John*
Sympson.

Who vouched
Henry Strong-
bill.

the said *John* warranted; and thereupon the said *Francis* demanded against him the said *Henry*, tenant by his warranty, the tenements aforesaid with the appurtenances in form aforesaid; and whereon he said, that he himself was seised of the tenements aforesaid with the appurtenances in his demesne as of fee and right in the time of peace in the time of the said then Lord the King, by taking the esplees thereof to the value, &c. And in which, &c. And therefore he produced the suit, &c. And the said *Henry*, tenant by his warranty, defended his right when, &c. and farther called thereof to warranty *J. Wheeler*, who was then likewise present in court in his proper person, and freely the tenements aforesaid with the appurtenances to the said *Henry* warranted, &c. And thereupon the said *Francis* demanded against the said *J. Wheeler*, tenant by his warranty, the tenements aforesaid with the appurtenances in form aforesaid, &c. And whereon he said, that he himself was seised of the tenements aforesaid with the appurtenances in his demesne as of fee and right in the time of peace in the time of the said then Lord the King, by taking the esplees thereof to the value, &c. And in which, &c. And therefore he then produced the suit, &c. And the said *J. Wheeler*, tenant by his warranty, defended his right when, &c. and said that the said *Hugh* did not disseise the said *Francis* of the tenements aforesaid with the appurtenances, as the same *Francis* by his writ and count aforesaid above supposed: And of this he put himself upon the country: And thereupon the said *Francis* prayed leave to imparl, and had, &c. And afterwards the said *Francis* came back then into court in that same term in his proper person; and the said *J. Wheeler*, altho' solemnly called, did not return, but in contempt of the court departed and made default: Therefore it is considered, that the said *Francis* should recover his seisin against the said *J. Symphon* of the tenements aforesaid with the appurtenances, and that the same *J. Symphon* should have of the land of the said *Henry* to the value, &c. and that the same *Henry* should farther have of the land of the said *J. Wheeler* to the value, &c. And the said *J. Wheeler* in mercy, &c. And thereupon the said *Francis* prayed the writ of the said late Lord the King, to the sheriff of the county aforesaid to be directed, to cause him to have full seisin of the tenements aforesaid with the appurtenances; and it was granted him, returnable in the morrow of St. *Martin* then next: On which day before the said justices of the said late Lord the King at *Westminster* came the said *Francis* in his proper person; and the sheriff, to wit, *G. Atkins*, Esq; then returned, that he by virtue of the said writ to him directed, had on the 31st day of *October* then last past caused the said *Francis* to have full seisin of the tenements aforesaid with the appurtenances, as he was by that writ commanded: By virtue whereof the same *J. Symphon* into the tenements aforesaid with the appurtenances (whereof the tenements aforesaid with the appurtenances in the declaration aforesaid mentioned are parcel) entred, and was thereof seised, as the law requires; and being so thereof seised afterwards, to wit, on the first day of *May* 1683 died so thereof seised, after whose death the tenements aforesaid with the appurtenances whereof, &c. descended to *T. Symphon*, the only son and heir of him the said *J. Symphon*; by virtue whereof the same *T. Symphon* the son into the tenements aforesaid with the appurtenances whereof, &c. entred, and was thereof seised as the law requires: And afterwards, to wit, on the 16th day of *November* 1683, the said *T. Symphon* being so as aforesaid seised, by a certain indenture tripartite, made between them the said *H. Strongbill* and *T. Symphon* of the first part, *H. Oxenden*, Esq; by the name of *H. Oxenden* of *Deane* in the parish of *Wingham* in the county of *Kent*, Esq; of the second part, and *G. Oxenden*, by the name of *G. Oxenden* of *Dofors Commons*, *London*, Doctor of laws, and *R. Oxenden* of *Grays-Inn* in the county of *Middlesex*, Esq; of the third part, bearing date the same day and year, for and in consideration of the sum of 5*s.* of lawful money of *England* in the indenture aforesaid mentioned, to be to them the said *H. Strongbill* and *T. Symphon* paid, they the said *H. Strongbill* and *T. Symphon* bargained and sold to the said *G. Oxenden* and *R. Oxenden* the tenements aforesaid with the appurtenances in the declaration aforesaid mentioned (among other); To have and to hold to the same *G. and R.* from the day next before the day of the date of the indenture aforesaid for the term of one year from thence next ensuing, to the intent that by virtue of the indenture aforesaid, and by force of the statute for transferring uses into possession, the said *G. and R.* might be in the actual possession of the premises whereof, &c. and enabled to take a grant and release of the reversion and inheritance thereof to them the said *G. and R.* and their heirs, to the uses, intents and purposes, to be limited, expressed and declared, as by the indenture aforesaid to the jurors aforesaid in evidence shewn more fully appears: By virtue whereof they the said *G. Oxenden* and *R. Oxenden* into the tenements aforesaid with the appurtenances in the declaration aforesaid mentioned entred, and were thereof possessed for the term aforesaid; and being so thereof possessed afterwards, to wit, on the 17th day of *Novem.* in the year last aforesaid, by a certain indenture tripartite made between them the said *H. S.* and *T. S.* of the first part, the said *H. O.* of the second part, and *G. O.* and *R. O.* of the third part, bearing date the same day and year, in consideration of 995*l.* 5*s.* of lawful money of *England* by the said *H. O.* to him the said *T. S.* and of 844*l.* 15*s.* of like lawful money of *England* by the said *H. O.* to him the said *Henry*

Who vouched
the common
voucher.

Writ of seisin.

The return:

Symphon entred and died
seised.

Thomas Symphon
his son and
heir entred.

And he and
Henry Strongbill by bargain, sale and release convey to *G.* and *R. Oxenden* in fee.
27 H. 8. c. 10.

Covenant for
farther as-
surance.

The uses
thereof.

G. and R.
Oxenden enter
and are seised,
&c. to whom
Henry Strong-
bill and his
wife levy a
fine,

Henry Strongbill paid, they the said Thomas Sympson and Henry Strongbill granted, bargained, sold, aliened, released and confirmed to the said George Oxenden and Richard Oxenden, then in their actual possession (among others) the tenements aforesaid with the appurtenances in the declaration aforesaid mentioned; To have and to hold to the said George Oxenden and Richard Oxenden, their heirs and assigns for ever: And the same jurors on their oath aforesaid farther say, that in the indenture aforesaid last mentioned is contained this clause following, to wit, And the said Henry Strongbill and Thomas Sympson for themselves severally, and for their several heirs and assigns, do covenant and grant to and with the said George Oxenden and Richard Oxenden, and their heirs and assigns, and every of them, by these presents, that they the said Henry Strongbill and Thomas Sympson, and their heirs, and also all and every other person and persons lawfully having or claiming, or which shall or may at any time hereafter have or lawfully claim any estate, title or interest, of, in or to the premises hereby granted, or of, in or to any part or parcel thereof, by, from or under them, or the said Sir John Sympson, or any or either of them, shall and will from time to time and all times hereafter, for and during the space of seven years next after the date of these presents, at and upon the reasonable requests, costs and charges in the law of the said George Oxenden and Richard Oxenden, their heirs and assigns, or some of them, do, make, levy, execute and acknowledge, and suffer, or cause to be made, done, acknowledged, levied, executed and suffered, all and every such farther and other lawful act and acts, thing and things, device and devices, assurance and assurances, conveyance and conveyances in the law whatsoever, for the better and more perfect assurance, surety, sure-making and conveying, settling, establishing and confirmation of the said several pieces or parcels of fresh marsh-grounds, lands, tenements, wood-grounds, hereditaments and premises hereby bargained and sold, or mentioned to be hereby bargained and sold, or any of them, and of every part and parcel thereof, with all and singular their and every of their appurtenances, unto the said George Oxenden and Richard Oxenden, their heirs and assigns, according to the true intent and meaning of these presents, be it by fine or fines, feoffment or feoffments, deed or deeds inrolled or not inrolled, the inrolment of these presents, or otherwise howsoever, as by the said George Oxenden and Richard Oxenden, their heirs and assigns, or any of them, or by their or any of their counsel learned in the law, shall be reasonably advised, devised or required, so as such farther acts, things, devices, assurances and conveyances contain no farther covenant or warranty than in these presents is contained; and so as the person or persons who shall be required to do, make, levy, execute, acknowledge and suffer the same, be not compelled to travel farther than the cities of London and Westminster for the doing thereof: And it is declared, concluded and agreed by and between all the said parties to these presents, and the said Henry Strongbill for himself, his heirs, executors and administrators, doth covenant, promise, declare and agree to and with the said Henry Oxenden, his heirs, executors, administrators and assigns, that all and every fine and fines, recovery and recoveries, levied or suffered by him the said Henry Strongbill, or Frances the now wife of the said Henry Strongbill, feoffment and feoffments, conveyance and assurance in the law whatsoever, heretofore had and executed, or hereafter to be had, levied and executed by and between the said parties to these presents, or any of them, or by and between them, or any other person or persons of the premises, or any part or parcel thereof, shall be and enure, and shall be adjudged, deemed and taken to be and enure, to the only use and behoof of the said George Oxenden and Richard Oxenden, their heirs and assigns for ever, as by the indenture aforesaid to the jurors aforesaid in evidence shewn more fully appears: By virtue whereof they the said George Oxenden and Richard Oxenden into the tenements aforesaid with the appurtenances in the declaration aforesaid mentioned (among others) entred, and were thereof seised as the law requires; and being so thereof seised afterwards, to wit, in Michaelmas term in the year last aforesaid, a certain fine was levied in the court of the said late Lord Charles the Second, before Thomas Jones, Hugh Wyndham, Job Charlton and Creswell Levinz, justices of the said late Lord the King of the Bench, between the said Henry Oxenden, plaintiff, and the said Henry Strongbill and the said Frances his wife, deforceants, of the tenements aforesaid with the appurtenances in the declaration aforesaid mentioned (among others) by the name of one barn, 30 acres of wood, and 130 acres of fresh marsh, with the appurtenances in Ludd, and in the parishes of New Church, Rumney Marsh, Wood Church, Riverton and Kunerton, otherwise Kenorthington; by which said fine the said Henry Strongbill and Frances acknowledged the tenements aforesaid with the appurtenances, whereof, &c. (among other)

other) to be the right of him the said *Henry Oxenden*, as those which the same *Henry Oxenden* had by the gift of the said *Henry Strongbill* and *Frances*, and them they released and quitted claim from them the said *Henry Strongbill* and *Frances* and their heirs to the said *Henry Oxenden* and his heirs for ever: And moreover the same *Henry Strongbill* and *Frances* granted for themselves and the heirs of the said *Henry Strongbill*, that they would warrant to the said *Henry Oxenden* and his heirs the said tenements with the appurtenances whereof, &c. against the said *Henry Strongbill* and *Frances* and the heirs of the said *Henry Strongbill* for ever: And the jurors aforesaid on their oath aforesaid farther say, that the fine aforesaid so as aforesaid levied, was levied to the use of the said *George Oxenden* and *Richard Oxenden* their heirs and assigns, whereby they the said *George Oxenden* and *Richard Oxenden* were seised of the tenements aforesaid with the appurtenances (whereof the tenements aforesaid with the appurtenances in the declaration aforesaid mentioned are parcel) as the law requires: And afterwards, to wit, on the 1st day of *May* 1695, the said *Henry Strongbill* died, and left issue of his body the said *Richard Strongbill* the lessor of the plaintiff, the first begotten son and heir of the said *Henry Strongbill*, the same *Richard* being then under the age of 21 years; and the said *George Oxenden* and *Richard Oxenden* being so thereof seised, they the said *George Oxenden* and *Richard Oxenden* afterwards, to wit, on the 1st day of *April* in the 9th year of the reign of the Lord *William the Third*, now King of *England*, &c. demised the tenements aforesaid with the appurtenances (whereof the tenements aforesaid with the appurtenances in the declaration aforesaid mentioned are parcel) to the said *J. Jordan*, *J. Mittell* and *T. Hamond*; To have and to hold to the same *J. Jordan*, *J. Mittell* and *T. Hamond*, from the feast of the Annunciation of the Blessed Virgin *Mary* then last past for one year, and so from year to year, as long as both parties should please: By virtue of which demise the same *J. Jordan*, *J. Mittell* and *T. Hamond* into the demised premises aforesaid with the appurtenances entered, and were thereof possessed; and being so thereof possessed the said *Richard Strongbill*, the lessor of the said *James Yorke*, afterwards, to wit, on the 7th day of *October* in the 9th year of the said now Lord the King aforesaid in the declaration aforesaid mentioned entered into the tenements aforesaid with the appurtenances, (whereof the tenements aforesaid with the appurtenances in the declaration aforesaid mentioned are parcel,) and them the said *J. Jordan*, *J. Mittell* and *T. Hamond* from thence expelled and amoved, and was thereof seised as the law requires; and being so thereof seised he the same *Richard*, the said 7th day of *October* in the 9th year of the reign of the said now Lord the King aforesaid, demised the tenements aforesaid with the appurtenances to the said *James Yorke*; To hold to the said *James Yorke* and his assigns from the 29th day of *September* then last past unto the full end and term of five years from thence next ensuing and fully to be compleat and ended: By virtue of which said demise the same *James Yorke* into the tenements aforesaid with the appurtenances entered, and was thereof possessed, until the said *J. Jordan*, *J. Mittell* and *T. Hamond* afterwards, to wit, on the said 7th day of *October* in the 9th year aforesaid in the declaration aforesaid mentioned, into the tenements aforesaid with the appurtenances, which the said *Richard Strongbill* to the same *James* in form aforesaid demised for the term aforesaid which is not yet past, in and upon the possession of the said *James* entered, and him the said *James* from his farm aforesaid, his term aforesaid therein not ended, ejected, expelled and amoved, and him the said *James* being so thereout ejected, expelled and amoved from his possession aforesaid thereof kept out, and yet do keep out, as the said *James* within against them thereof complains: But whether on the whole matter aforesaid by the jurors aforesaid in form aforesaid found, the said *J. Jordan*, *J. Mittell* and *T. Hamond* are guilty of the trespass and ejectment within written in the tenements aforesaid with the appurtenances in the declaration aforesaid mentioned, the jurors aforesaid are intirely ignorant, and thereof pray the advice of the court here: And if on the whole matter aforesaid, by the jurors aforesaid in form aforesaid found, it shall seem to the justices of the said Lord the now King here, that the said *J. Jordan*, *J. Mittell* and *T. Hamond*, are guilty in law of the trespass and ejectment aforesaid in the tenements aforesaid with the appurtenances in the declaration aforesaid abovementioned, then the jurors aforesaid say on their oath aforesaid, that the said *J. Jordan*, *J. Mittell* and *T. Hamond* are thereof guilty in manner and form as the said *James Yorke* within against the same *J. Jordan*, *J. Mittell* and *T. Hamond* thereof complains; and they assess the damages of the said *James Yorke* by the occasion aforesaid, beside his costs and charges by him about his suit in this behalf expended, to 12 d. and for those costs and charges to 20 d. But if on the whole matter aforesaid, by the jurors aforesaid in form aforesaid found, it shall seem to the justices of the said now Lord the King here, that the said *J. Jordan*, *J. Mittell* and *T. Hamond*, are not guilty in law of the trespass and ejectment aforesaid in the tenements aforesaid with the appurtenances in the declaration aforesaid abovementioned, then the same jurors say on their oath aforesaid that the said *J. Jordan*, *J. Mittell* and *T. Hamond*, are not thereof guilty in manner and form as the said *J. Jordan*, *J. Mittell* and *T. Hamond* within

Henry Strongbill died leaving *Richard* (the plaintiff's lessor) his son and heir under age. *G. and R. Oxenden* demised to the defendants at will;

on whom the said *Richard* entered, and demised to the plaintiff, who was possessed till ejected by the defendants.

But whether, &c.

Continuances. within for themselves by pleading have alledged: And because the said justices and court here are not yet advised to give their judgment of and upon the premises, day therefore is given to the parties aforesaid in the state as now before *George Treby*, Knt. and his companions, justices of the said Lord the King of the Bench at *Westminster*, from the day of *Easter* in 15 days to hear their judgment thereof: On which day here come as well the said *James Yorke* as the said *John Jordan*, *John Mittell* and *Thomas Hamond* by their attornies aforesaid: And because the justices here will advise themselves of and upon the premises before they give judgment thereon, day is given to the parties aforesaid here until on the morrow of the Holy *Trinity* to hear their judgment thereon, because the same justices here thereof not yet, &c. On which day here come as well the said *James* as the said *J. Jordan*, *J. Mittell* and *Thomas* by their attornies aforesaid: And because the justices here will farther advise themselves of and upon the premises before they give judgment thereon, day is farther given to the parties aforesaid here until the day of *St. Michael* in three weeks to hear their judgment thereon, because the same justices here thereof not yet, &c. On which day here come as well the said *James* as the said *J. Jordan*, *J. Mittell* and *Thomas* by their attornies aforesaid: And because the justices here will farther advise themselves of and upon the premises before they give judgment thereon, day is farther given to the parties aforesaid here until in the Octave of *St. Hillary* to hear their judgment thereon, because the same justices here thereof not yet, &c.

Andrews and Lilly.

Lease in ejectment where the premises are not inhabited, in order to recover the possession.

Pract. Reg.
469.

THIS Indenture made the 23d day of *May* in the 24th year of the reign of our Sovereign Lord *Charles* the Second, by the Grace of God of *England*, *Scotland*, *France* and *Ireland* King, defender of the faith, in the year of the Lord 1680, between *John Andrews* of the *Strand*, victualler, of the one part, and *John Lilly*, Gent. of the other, witnesseth, That he the said *John Andrews*, for divers good causes and considerations him hereunto moving, hath demised, granted and to farm letten, and doth by these presents demise, grant and to farm let unto the said *John Lilly* All that his messuage, commonly called or known by the name of the *Tallow Chandler's Head*, situate, lying and being in *Bloomsbury Market-place* in the parish of *St. Giles in the Fields* in the county of *Middlesex*, and late in the possession of one *Henry Duncomb*; To have and to hold the premises aforesaid with the appurtenances from the date of these presents for and during and unto the full end and term of two years from thence next ensuing and fully to be compleat and ended; Provided always, and upon condition that if the said *John Andrews*, his executors or administrators, shall at any time after the 30th of this present *May* tender to the said *John Lilly*, his executors or administrators, 1 s. then this present indenture, and every thing herein contained, shall be void and of none effect (any thing herein contained to the contrary in any wise notwithstanding): In witness whereof the parties abovesaid have hereto interchangeably set their hands, &c.

Legawe and Plumer.

Rule in ejectment to make the tenant defendant, on which costs were taxed for not confessing the lease, &c.

IT is ordered by the consent of the parties, that *Henry Plumer* be made a defendant in the place of the now defendant *Legawe*, and shall appear without delay at the suit of the plaintiff, and shall receive a declaration in a plea of trespass and ejectment for the tenements in question, and shall without delay plead thereto Not guilty; and on the trial of the issue aforesaid shall confess the lease, entry and actual ejectment for the tenements in question, and shall insist on the title only, otherwise judgment to be entered for the plaintiff against the now defendant *Legawe* by default: And if on the trial of the issue aforesaid the same *Henry* shall not confess the lease, entry and ejectment, whereby the plaintiff shall not be able to prosecute his writ against the said *Henry*, then no costs or charges shall upon such *nonprofs* be adjudged, but that the said *Henry* shall pay to the said plaintiff the costs and charges thereon to be taxed: And it is farther ordered, that if on the trial of the issue a verdict shall be given for the defendant *Henry*, or if it shall happen that the plaintiff shall not farther prosecute his writ aforesaid against the said *Henry* for any other cause than for not confessing the lease, entry and actual ejectment aforesaid, that then the lessor of the plaintiff aforesaid shall pay to the said *Henry* the costs and charges by the court here to be taxed.

John Powell
for costs 12 l.

H. for the plaintiff.
L. for the defendant.

Leake against Legawe.

Mid., to wit. **L**awrence Legawe, late of London, Gent. was attached to answer Thomas Declaration in Leake, Gent. in a plea, why with force and arms he into three messuages, 30 acres of land, 20 acres of meadow, and 10 acres of pasture with the appurtenances in Hadley, which the Honourable Vere Booth, spinster, to the same Thomas demised for a term which is not yet passed, entred, and him from his farm aforesaid ejected, and committed other outrages on him, to the great damage of the said Thomas, and against the peace of the now Lady the Queen, &c. And whereon the said Thomas Leake by John Lilly his attorney complains, that whereas the said Vere Booth on the 20th day of November in the first year of the reign of the Lady Anne, now Queen of England, &c. demised to the same Thomas the tenements aforesaid with the appurtenances; To have and to hold the tenements aforesaid with the appurtenances to the same Thomas and his assigns from the 17th day of the same month of November then last past unto the end and term of five years from thence next ensuing and fully to be compleat and ended; by virtue of which said demise the same Thomas into the tenements aforesaid with the appurtenances entred, and was thereof possessed; and he the said Thomas being so thereof possessed, the said Lawrence afterwards, to wit, on the same 20th day of November in the first year aforesaid, with force and arms, &c. into the tenements aforesaid with the appurtenances, which the said Vere Booth to the same Thomas in form aforesaid demised for the term aforesaid, which is not yet past, entred, and him the said Thomas from his farm aforesaid ejected, and other outrages, &c. to the great damage, &c. and against the peace, &c. whereby he says that he is prejudiced, and hath damage to the value of 40*l.* And therefore he produces the suit, &c.

ejectment by
original to be
delivered to
the tenant to
compel him
to appear.
Salk. 432.

To Sir William Buck, Bart.

I am informed that you are in possession, or claim title to the premises in this declaration of ejectment mentioned, or to some part thereof; and being sued in this action as a casual ejector, and having no claim or title to the same, do advise you to appear the first day of the next *Hilary* term in her Majesty's court of Queen's Bench at Westminster by some attorney of that court, and then and there by rule of the same court to cause yourself to be made defendant in my stead; otherwise I shall suffer a judgment to be entred against me, and you will be turned out of possession.

Your loving friend,

Lawrence Legawe.

Unless the tenant in possession shall appear and plead to issue within one week next after the Rule on motion of this term, let judgment be entred for the plaintiff against the now defendant Legawe. On the motion of Mr. Brodrick.

tion to the
court for judgment, unless.

By the court.

Between { Thomas Woodfield, plaintiff,
and
William Evans, defendant, } In ejectment.

In the Queen's Bench.

T. T. clerk to John Lilly, Gent. one of the attornies of this court, maketh oath, that he did upon Saturday the 17th day of this instant January, deliver a copy of the declaration hereunto annexed unto Martha Forbister, tenant in possession of part of the premises in the said declaration mentioned; and also on the same day did deliver one other copy of the said declaration unto Margaret the wife of Daniel Cane, one other tenant in possession of other part of the premises in the said declaration mentioned; and also on the same day did deliver one other copy of the said declaration unto the wife of Mr. Amos, one other tenant in possession of other part of the premises in the said declaration mentioned: And this deponent farther saith, that he did upon Monday the 19th day of the same month of January deliver one other copy of the said declaration unto Mrs.

Affidavit of
the delivery
of the declaration to the
tenant in possession.
Pract. Reg.
44. 46.

And to the
tenant's wife.
Mrs.

Mrs. *Howfen*, one other tenant in possession of other part of the premises in the said declaration mentioned; and then did also deliver one other copy of the said declaration unto the maid servant of Mr. *Wheallers*, her master, one other tenant in possession of other part of the premises in the said declaration also mentioned, being at sea, and the mistress his wife being sick in bed, as the said servant told this deponent: And this deponent farther saith, that he told them all severally, that it was a declaration in ejectment, and unless they did appear by some attorney of the court of Queen's Bench this present *Hillary* term, there would be judgment thereupon against the defendant by default, and they would be turned out of possession, or words to that effect.

And to the servant of the tenant.
N. B. This is not good, unless it appear to have been receiv'd by the tenant.

Rule for the master to compute the rent arrear, and tax the costs by the statute. It is order'd that the defendant shall bring here into court 80*l*. And thereupon it shall be referred to Mr. *Clarke* to compute the money being in arrear to the lessor of the plaintiff issuing out of the premises in question, and to tax the costs of the same lessor in this cause expended; and if the said lessor shall accept the money by the same Mr. *Clarke* to be computed and taxed in full discharge of this suit, then the said 80*l*. shall be paid to the same lessor, or his attorney, out of court; but if he shall not accept thereof, and it shall appear on the trial of the issue that the same lessor hath no title to the premises in question, but for the non-payment of the money so being in arrear, then verdict shall be given for the defendant. On the motion of Mr. *Page*.

By the court.

Holdmystaffe against Legawe.

Ejectment on a double demise. Salk. 774.

Demise by executors.

Demise by Cestui que trust.

Kent, to wit. **L**awrence Legawe, late of London, Gent. was attached to answer Thomas Holdmystaffe, Gent. in a plea, why with force and arms he into 10 messuages, 10 gardens, 6 orchards, 150 acres of land, 40 acres of meadow, and 80 acres of pasture with the appurtenances in *East-Church*, *Queenborough* and *Warden* in the isle of *Scape* in the county aforesaid, which Christopher Lord Viscount Hatton and Samuel Grimstone, Bart. to the same Thomas demised for a term which is not yet past, entred, and him from his farm aforesaid ejected, and also into 10 other messuages, 10 other gardens, 6 other orchards, &c. with the appurtenances in *East-Church*, *Queenborough* and *Warden* in the isle of *Scape* in the county aforesaid, which James Edge to the same Thomas demised for a term which is not yet past, entred, and him from his farm aforesaid ejected, and committed other outrages on him, to the great damage of the said Thomas, and against the peace of the now Lord the King, &c. And whereon the said Thomas by John Allen his attorney complains, that whereas the said Christopher Viscount Hatton, and Samuel Grimstone, Bart. on the 4th day of July in the 12th year of the reign of the now Lord the King, at *East-Church* aforesaid demised to the same Thomas the tenements aforesaid with the appurtenances first mentioned; To have and to hold the tenements aforesaid with the appurtenances to the same Thomas and his assigns from the third day of July then last past unto the end and term of seven years from thence next ensuing and fully to be compleat and ended: And also that whereas the said James Edge afterwards, to wit, on the said 4th day of July in the 12th year of the reign of the said now Lord the King, at *East-Church* aforesaid demised to the same Thomas the tenements aforesaid with the appurtenances last mentioned; To have and to hold the tenements aforesaid with the appurtenances last mentioned to the same Thomas and his assigns from the said 3d day of July then last past to the full end and term of seven years from thence next ensuing and fully to be compleat and ended: By virtue of which said several demises the said Thomas into the several tenements aforesaid with the appurtenances entred, and was thereof possessed; and he the said Thomas being so thereof possessed, the said Lawrence afterwards, to wit, on the fifth day of the same month of July in the 12th year aforesaid, with force and arms, &c. into the several tenements aforesaid with the appurtenances, which the said Christopher Lord Viscount Hatton, S. Grimstone and James Edge, to the same Thomas in form aforesaid demised for the term aforesaid, which is not yet past, entred, and him from his farm aforesaid ejected, and other outrages, &c. to the great damage, &c. and against the peace, &c. whereby he says that he is prejudiced, and hath damage to the value of 40*l*. And therefore he produces the suit, &c.

Fisher

Fisber against Wigg and another.

Trin. 11 W. 3. Roll 1560.

Hertford, to wit. **W**illiam Fisber complains of James Wigg and John Nicbolls, which said **W**illiam is under the age of 21 years, to wit, of the age of 17 years, in the custody of the marshal, &c. for this, to wit, that whereas **J. Higby, Richard Higby, Tho. Higby, Tho. Dretw** and **Dorothy** his wife, on the first day of *January* in the 9th year of the reign of the Lord **William the Third**, now King of *England*, &c. at the parish of *B.* in the county aforesaid, by their certain indenture then and there made between them the said **J. Higby, R. H. &c.** on the one part, and the said **William Fisber** of the other part, one part of which said indenture sealed with the seals of them the said **J. H. R. H. &c.** the same **William Fisber** here in court produces, bearing date the same day and year, did demise, grant and to farm let, to the same **W. Fisber** three parts, in five parts to be divided, of one messuage, 50 acres of land, 50 acres of meadow, and 50 acres of pasture with the appurtenances in the parish of *B.* aforesaid in the county aforesaid; To have and to hold the same three parts of the tenements aforesaid, in five parts to be divided, to the same **W. Fisber** and his assigns from the feast of the Birth of our Lord then last past unto the full end and term of seven years from thence next ensuing and fully to be compleat and ended; Yielding and paying therefore to the same **J. H. R. H. &c.** during the term aforesaid the yearly rent of 10 s. as by the same indenture, among other things, is more fully manifest and appears: And that by a certain other indenture made at the parish aforesaid in the county aforesaid, on the said first day of *January* in the 9th year above said, between **J. F. and E.** his wife, **A. S. and C. S.** of the one part, and the said **W. Fisber** of the other part, which other part of the said other indenture sealed with the seals of them the said **J. F. and E.** his wife, **A. S. and C. S.** the same **W. Fisber** here in court produces, bearing date the same day and year, the same **J. F. and E.** his wife, **A. S. and C. S.** did demise, grant and to farm let, to the same **W. Fisber** one other fifth part, in five parts to be divided, of the tenements aforesaid with the appurtenances; To have and to hold the same fifth part of the said tenements with the appurtenances to the same **W. Fisber** and his assigns from the said feast of the Birth of our Lord then last past unto the full end and term of seven years from thence next ensuing and fully to be compleat and ended; Yielding and paying therefore to the said **J. F. and E.** his wife, **A. and C.** during the term aforesaid, the yearly rent of 5 s. as by the same indenture is also more fully manifest and appears: By virtue of which said several demises the same **W. Fisber** into the tenements aforesaid with the appurtenances entred, and was thereof possessed until the said **James Wigg** and **John Nicbolls** afterwards, to wit, on the said first day of *January* in the 9th year above said, with force and arms, &c. into the tenements aforesaid with the appurtenances in and upon the possession of him the said **W. Fisber** thereof entred, and him the said **W. Fisber** from his several farms aforesaid, his terms aforesaid therein not ended, ejected, expelled and amoved, and him the said **W. Fisber** so thereout ejected, expelled and amoved from his possession aforesaid thereof kept out, and yet do keep-out, and other outrages on him then and there committed, against the peace of the said now Lord the King, and to the damages of the said **W. Fisber** 10 l. And therefore he produces the suit, &c.

Ejectment on a double demise against tenants in common for four parts of lands, &c. in five parts to be divided. Salk. 301. Pract. Reg. 454. 560. The demise of three fifth parts.

The demise of one fifth part.

As to the force, &c. Not guilty.

As to the residue, that the premises are copyhold held of the manor of *B.* whereof Dame *Capel* and *B.* are seised in fee.

And the said **James Wigg** by **R. G.** his attorney, and the said **J. Nicbolls** by the said **R. G.** his guardian, by the court of the said now Lord the King specially admitted, come and defend the force and injury when, &c. And as to the force and arms, or whatever that is against the peace of the said now Lord the King, say that they are not thereof guilty: And of this they put themselves on the country: And the said **W. Fisber** thereof likewise, &c. And as to the residue of the trespass and ejectment aforesaid above supposed to be committed. the same **James** and **John** say, that the said **W. Fisber** ought not to have or maintain his action aforesaid thereof against them, because they say, that the tenements aforesaid with the appurtenances in which, &c. are, and at the time when, &c. as also from time out of mind were parcel of the manor of *B.* in the county of *Hertford* aforesaid, and copyhold tenements of the same manor, and also demised and demisable by copy of court-roll of the said manor, by the Lord of the said manor for the time being, to any person or persons whomsoever willing to take the same in fee-simple, or otherwise, at the will of the Lord according to the custom of the manor aforesaid; of which said manor with the appurtenances whereof, &c. the Right Honourable Dame **Elizabeth Capel**, widow, and **R. B. Gent.** before the time when, &c. were seised in their demesne as of fee; and being thereof so seised afterwards, and before the said time when, &c. to wit, at a court of them the said Dame **Elizabeth Capel**, and **R. B.** of their manor aforesaid, held

Grant by copy to *A. H.* in fee, who had issue four sons and two daughters.

And surrendered to his wife for life, and after to his three younger sons and two daughters in fee, equally to be divided.

Who were admitted.

And all of them except *A.* died.

Who being sole seised by survivorship took to husband *J. N.* and had issue one of the defendants.

Who on the death of his father and mother entred and was seised, on whom the plaintiff entred, and he and the other defendant, as his servant, re-entred as, &c.

Repl. as to three fifth parts. Admits they are copyhold.

at the manor aforesaid on the 15th day of *October* 1660, the same Dame *Elizabeth Capel* and *R. B.* by copy of court-roll of the same manor did grant the tenements with the appurtenances in which, &c. to one *A. H.* the elder, his heirs and assigns for ever, at the wills of the Lords of the manor aforesaid according to the custom of the said manor: By virtue of which said grant the said *A. H.* the elder into the same tenements entred, and was seised in his demesne as of fee, at the will of the Lords of the manor aforesaid according to the custom of the same manor, of and in the tenements aforesaid with the appurtenances in which, &c. and had issue *W. H.* his eldest son, and three other sons, to wit, *A. R.* and *J.* and two daughters, to wit, *G.* and *A.* and that he the same *A. H.* the father being so thereof seised afterwards, and before the time when, &c. at that same court then and there held surrendered the same tenements into the hands of the Lord and Lady of the manor aforesaid, to the use and behoof of *G.* his then wife, for and during the term of her natural life, and after her decease to the use of the said *A. H.* the younger, *R. H.* and *J. H.* his three sons, and *G. H.* and *A. H.* his two daughters, equally to be divided, and to their respective heirs and assigns for ever; and that afterwards, to wit, the same day, year and place, at that same court the said Lord and Lady of the manor aforesaid, by copy of court-roll of the same manor, granted the tenements aforesaid to the said *G.* the wife of the said *A. H.* the elder, for and during the term of her natural life, the remainder thereof after her decease to the said *A. H.* the younger, *R. H.* *J. H.* *G. H.* and *A. H.* the sons and daughters of the said *A. H.* the elder and *G.* his wife, equally to be divided, and to their respective heirs and assigns for ever, at the will of the Lords of the manor aforesaid according to the custom of the same manor, according to the form and effect of the surrender aforesaid; and the said *G.* the wife of the said *A. H.* the elder, and the said *A. H.* the younger, *R. H.* *J. H.* *G. H.* and *A. H.* were then and there admitted tenants thereof in form aforesaid: By virtue of which said grant the said *G.* the wife of the said *A. H.* the elder, was seised of the tenements aforesaid in which, &c. in her demesne for term of life, the remainder thereof to the same *A. H.* the younger, *R. H.* *J. H.* *G. H.* and *A. H.* equally to be divided, and to their respective heirs belonging, at the will of the Lord of the manor aforesaid according to the custom of the said manor: And the said *G.* the wife of the said *A. H.* the elder, so being thereof seised afterwards, and before the time when, &c. to wit, on the first day of *May* 1661, at *B.* aforesaid in the county aforesaid, she the said *G.* the wife of the said *A. H.* the elder, and the said *A. H.* the elder, *A. H.* the younger, *R. H.* *J. H.* and *G. H.* all died, and the said *A.* did them survive, and keep herself in the tenements aforesaid in which, &c. and was thereof sole seised by right of survivorship in her demesne as of fee, at the will of the Lord of the manor aforesaid according to the custom of the said manor; and being so thereof seised the said *A. Higby* afterwards, and before the said time when, &c. to wit, on the first day of *May* 1680, at *B.* aforesaid took to husband one *J. N.* which said *J.* and *A.* had issue between them *J. Nicholls* their first begotten son, now one of the defendants; and afterwards, to wit, on the first day of *May* 1690, at *B.* aforesaid the said *J. N.* the elder died, and the said *A. N.* then there likewise of such her estate died thereof seised, after whose death the tenements aforesaid with the appurtenances descended to the same *J. N.* now one of the defendants, as son and heir of the said *A.* whereby the said *J. N.* into the tenements aforesaid with the appurtenances entred, and was thereof seised in his demesne as of fee, at the will of the Lord of the manor according to the custom of the said manor; and being so thereof seised the said *J. H.* and *R. H.* the lessors, *T. H. T. D.* and *D.* his wife, and also the said *J. F.* and *E.* his wife, *A. S.* and *G. S.* on the same first day of *January* in the 9th year abovesaid, at *B.* aforesaid respectively made the said indentures of the said three fifth parts, and the said one fifth part of the tenements aforesaid with the appurtenances in which, &c. to the said *W. Fisher*, as by the declaration aforesaid is supposed; by colour of which said indentures the said *W. F.* into the said four parts of the tenements aforesaid with the appurtenances in which, &c. before the said time when, &c. entred, and was thereof possessed; on the possession of which said *W. Fisher* thereof the same *James* and *John Nicholls* afterwards, to wit, the said time when, &c. into the said four parts of the tenements aforesaid with the appurtenances, to wit, the said *J. Nicholls* claiming his estate aforesaid, and the said *James*, as his servant and by his command, thereto entred, and the said *W. Fisher* from his farms aforesaid thereof ejected, as they lawfully might: And this they are ready to verify: Wherefore they pray judgment if the said *W. F.* ought to have or maintain his action aforesaid thereof against them, &c.

And the said *W. Fisher*, as to the said three fifth parts of the tenements aforesaid with the appurtenances in the first demise aforesaid above mentioned, says, that he by any thing by the said *James* and *John* above in pleading alledged ought not to be precluded from his action aforesaid thereof against them had, because he says, that right and true it is that the tenements aforesaid with the appurtenances are, and for all the time abovesaid were parcel of the manor aforesaid, and demised and demisable, as by the plea aforesaid is above supposed: But the said *W. Fisher* farther says, that the said *A. H.* and the said *G.* had issue between them lawfully begotten one *W. H.* their eldest son and heir, and also the said *A. H.* the younger, *R. H.* and *J. H.*

J. H. his three sons, and also *G. H.* and *A. H.* his daughters, and surrendered the tenements afore-
 said with the appurtenances into the hands of the Lord and Lady of the manor afore-
 said, to the use and behoof of the said *G.* his wife for the term of her natural life, and after
 her decease, to the use of the said *A. H.* the younger, *R. H.* *J. H.* *G. H.* and *A. H.* his sons
 and daughters, equally to be divided, and to their respective heirs and assigns for ever: And
 afterwards the said *A. H.* the father there died; and thereupon the same Dame *Capel* and
R. B. granted the said tenements with the appurtenances to the said *G.* the wife of the said
A. H. the elder, for and during the term of her natural life; and after her decease, to the
 said *A. H.* *R. H.* *J. H.* *G. H.* and *A. H.* sons and daughters of the said *A. H.* the elder and
G. his wife, equally to be divided, and to their respective heirs and assigns for ever; to hold
 at the will of the Lords of the manor afore-
 said according to the custom of the said ma-
 nor, as in the plea afore-
 said is alledged: And that the said *G.* the wife, by virtue of the sur-
 render and grant afore-
 said, was seised of the tenements afore-
 said with the appurtenances in
 her demean for the term of her life, the remainder thereof to the same sons and daughters
 at the will of the said Lords according to the custom of the manor afore-
 said in form afore-
 said belonging: And that the said *G.* the wife of the said *A. H.* the elder, and the said *A. H.*
 the younger, *R. H.* *J. H.* and *G. H.* the daughter, died, and the said *A.* them survived,
 and afterwards took to her husband the said *J. Nicholls*, and they had issue between them the
 said *J. N.* now one of the defendants; and afterwards the said *J. N.* the elder and *A.*
 died, as by the plea afore-
 said is above supposed: But the same *W. Fisher* says, that the said
G. the wife of the said *A. H.* the elder, died in the life-time of the said *A. H.* the younger,
R. H. *J. H.* and *G. H.* the sons and daughter of the said *A. H.* the elder and *G.* his wife,
 whereby the same *A. R.* and *J.* the sons, and the said *G.* and *A.* the daughters, into the tene-
 ments afore-
 said with the appurtenances entered, and were thereof seised in common in their
 demean as of fee at the will of the Lord according to the custom of the manor afore-
 said; and
 being so thereof seised the said *A.* the son of such his estate of and in the tenements afore-
 said at
B. afore-
 said died thereof seised without heir issuing from his body; after whose death his
 purparty, to wit, the fifth part of the tenements afore-
 said with the appurtenances descended
 to the said *W. H.* as elder brother and heir of the said *A.* the son; and the said *R.* the son
 of such his estate of and in the tenements afore-
 said with the appurtenances there likewise
 died seised without heir from his body issuing; after whose death his purparty, to wit, an-
 other fifth part of the tenements afore-
 said with the appurtenances, descended to the said *W. H.*
 as elder brother and heir of the same *R.* the son; and the said *J.* the son of such his estate of
 and in the tenements afore-
 said with the appurtenances there likewise died seised without heir
 from his body issuing; after whose death his purparty, to wit, another fifth part of the tene-
 ments afore-
 said with the appurtenances, descended to the said *W. H.* as elder brother and heir of
 the said *J.* and by reason of the premisses the same *W. H.* was seised of three parts of the
 tenements afore-
 said with the appurtenances, in five parts to be divided, in his demean as of fee
 at the will of the Lord according to the custom of the manor afore-
 said: And the same *W. F.*
 farther says, that within the manor afore-
 said there is and from time immemorial hath been
 a certain antient and laudable custom used and approved, to wit, that every customary
 tenant of the said manor, being seised of any customary lands or tenements of the same
 manor in his demean as of fee at the will of the Lord according to the custom of the same
 manor, and within the manor afore-
 said, did surrender, and was used and accustomed to sur-
 render at his pleasure, all such his customary lands and tenements, or any part thereof, out of
 the court of the manor afore-
 said, into the hands of the Lord or Lords of the manor afore-
 said for the time being, by the hands of two customary tenants, to any use or uses whatsoever as
 to him should seem fit; and if any such surrender out of the court of the manor afore-
 said
 into the hands of the Lord or Lords of the manor afore-
 said for the time being, by the hands of
 two customary tenants, was in form afore-
 said had and made, that then such surrender during all
 the time afore-
 said was presented, and was used to be presented, at the court of the same ma-
 nor next following such surrender at the said manor to be held: And that the said *W. H.* last
 named, of the said three parts of the tenements afore-
 said with the appurtenances, in five parts
 to be divided, in form afore-
 said being seised, the same *W. H.* afterwards, and before the said
 time when, &c. to wit, on the first day of *August* in the 9th year of the reign of the said
 now Lord the King afore-
 said, at the parish of *B.* afore-
 said in the county afore-
 said and with-
 in the manor afore-
 said, surrendered the same three fifth parts of the tenements afore-
 said
 with the appurtenances into the hands of the Lord of the manor afore-
 said by the hands of
N. C. and *J. J.* then two customary tenants of the manor afore-
 said, according to the cu-
 stom of the said manor, to such uses, intents and purposes, as he the same *W. H.* by his last
 will and testament should limit and appoint; and afterwards, to wit, the same day and
 year made his last will and testament in writing, and by his said last will gave and devised
 his same three fifth parts of the tenements afore-
 said with the appurtenances to the said *J. H.*
R. H. *T. H.* and *D.* in the declaration afore-
 said above named, being the sons and daughter
 of the said *W. Higby* the father, and their heirs for ever; and afterwards, to wit, on the
 tenth day of *December* in the ninth year afore-
 said, the said *W. Higby* the father at the

And surrender
and uses.

Tenants in
common,
three died and
their parts
descended to
W. H. as el-
der brother
and heir.

Custom to sur-
render out of
court.

W. H. surren-
dered to the
use of his will,
and thereby
devoted these
three parts to
the plaintiff's
lessor.

The present-
ment of the
surrender and
of the death
of *W. H.*

The admission
of the devi-
sees to the
three fifths;

who demised
them to the
plaintiff.

The like plea
to the other
fifth part.

the parish aforesaid in the county aforesaid died seised of such his estate of and in the said three parts of the tenements aforesaid with the appurtenances; and afterwards, to wit, at the next court of the manor aforesaid held after the said surrender, to wit, at the court of the said manor held within the manor aforesaid on the 18th day of *December* in the 9th year above-said, the said surrender according to the custom of the manor aforesaid, and the said death of him the said *W. H.* the father, by the homage of the said court was presented; and thereupon *R. P.* and *N. P.* then Lords of the manor aforesaid, by their then steward of the court of that manor, by copy of court-roll of the said manor in execution of the will aforesaid granted the same three fifth parts of the tenements aforesaid with the appurtenances to the said *J. H.* *R. H. T. H.* and *D.* the sons and daughter of the said *W. H.* the father; To have and to hold to them and their heirs at the will of the Lord according to the custom of the manor aforesaid; and afterwards, to wit, the same day, year and place last aforesaid, *T. D.* took to wife the said *D. H.* and by reason of the premisses the same *J. H. R. H.* and *T. H.* the sons in their own proper right, and the said *T. D.* and *D.* in the right of the said *D.* into the said three fifth parts of the tenements aforesaid with the appurtenances entered, and were, to wit, the same *J. H. R. H.* and *T. H.* the sons, in their own proper right, and the said *T. D.* and *D.* in the right of the said *D.* thereof seised in their demean as of fee at the will of the Lord of the manor aforesaid according to the custom of the said manor; and being so thereof seised the same *J. H. R. H.* and *T. H.* the sons, and the said *T. D.* and *D.* on the said first day of *January* in the 9th year above-said at *B.* aforesaid, into the tenements aforesaid with the appurtenances entered, and by the indenture aforesaid in the declaration aforesaid above first mentioned demised the same three fifth parts of the tenements aforesaid with the appurtenances to the same *W. F.* To have and to hold to the same *W. F.* and his assigns from the said feast of the Birth of our Lord then last past unto the full end and term aforesaid of seven years from thence next ensuing and fully to be compleat and ended: By virtue of which said demise the same *W. F.* into the same three fifth parts of the tenements aforesaid with the appurtenances entered, and was thereof possessed, until the said *James* and *J. Nicholls* afterwards, to wit, the same 1st day of *January* in the 9th year above-said, into the same three fifth parts of the tenements aforesaid with the appurtenances in and upon the possession of him the said *W. F.* entered, and him the said *W. F.* from his farm aforesaid, his term aforesaid therein not ended, ejected, expelled and amoved, in manner and form as the same *W. F.* above thereof against the said *James* and *J. N.* complains: And this he is ready to verify: Wherefore he prays judgment, and his damages by reason of the said trespass and ejectment, to be adjudged to him, &c. And as to the said fifth part of the tenements aforesaid with the appurtenances in the declaration aforesaid abovementioned to be demised to the same *W. F.* by the said *J. T.* and *E.* his wife, and *A. S.* and *G. S.* spinsters, the same *W. F.* says, that he by any thing by the said *James* and *John* above in pleading alledged ought not to be precluded from his action aforesaid thereof against them had, because as before he says, that right and true it is, that the tenements aforesaid with the appurtenances are and for all the time above-said were parcel of the manor aforesaid, and demised and demisable, as by the plea aforesaid is above alledged; but the said *W. F.* farther says, that the said *A. H.* the elder and the said *G.* had issue between them lawfully begotten one *W. H.* their eldest son and heir, and also the said *A.* the younger, *R.* and *J. H.* three sons, and also the said *G. H.* and *A. H.* his daughters, and surrendered the tenements aforesaid with the appurtenances into the hands of the said Lord and Lady of the manor aforesaid, to the use and behoof of the said *G.* his wife for the term of her natural life, and after her decease to the use and behoof of the said *A. H.* the younger, *R. H. J. H. G. H.* and *A. H.* his sons and daughters equally to be divided, and to their respective heirs and assigns for ever; and afterwards the said *A.* the father died; and thereupon the said Dame *C.* and *R. B.* Lords of the manor aforesaid, granted the tenements aforesaid with the appurtenances to the said *G.* the wife of the said *A. H.* the elder, for and during the term of her natural life; and after her decease, to the said *A. H. R. H. J. H. G. H.* and *A. H.* the sons and daughters of the said *A. H.* the elder and *G.* his wife, equally to be divided, and to their respective heirs and assigns for ever; and that the said *G.* the wife by virtue of the surrender and grant aforesaid was seised of the tenements aforesaid with the appurtenances in her demean for the term of her life, the remainder thereof to the same sons and daughters at the will of the Lords of the manor aforesaid according to the custom of the said manor belonging; and that the said *G.* the wife of the said *A. H.* the elder, *A. H.* the younger, *R. H. J. H.* and *G. H.* the daughter, died, and the said *A.* survived them; and afterwards took to her husband the said *J. N.* and they had issue between them the said *John Nicholls* now one of the defendants, and afterwards the said *A.* died, as by the plea aforesaid above is supposed: But the same *W. F.* as before, farther says, that *G.* the wife of the said *A. H.* the elder died in the life-time of the said *A. H.* the younger, *R. H. J. H. G. H.* and *A. H.* the sons and daughters of the said *A. H.* the elder and *G.* his wife; whereby the same *A. R.* and *J.* the sons, and the said *G.* and *A.* the daughters, into the tenements aforesaid with the appurtenances entered, and were thereof seised in common, to wit, the same *G.* the daughter of a fifth part of the tenements aforesaid with the appurtenances in her demean as of fee at the will of the Lord according to the custom of the manor aforesaid; and being so thereof seised the same *G.* the daughter afterwards, and before the said time when, &c. at the parish aforesaid took to her

her husband one *J. S.* and the same *J. S.* and *G.* his wife afterwards, and before the said time when, &c. there had issue between them lawfully begotten the said *E.* now the wife of the said *J. F.* the said *A.* and *G. S.* and afterwards, and before the said time when, &c. the said *J. S.* and afterwards the said *G.* his wife died of such their estate of and in the same fifth part of the tenements aforesaid with the appurtenances seised, after the death of which said *G. S.* the same fifth part of the tenements aforesaid with the appurtenances descended to the said *E.* now the wife of the said *J. F.* and to the said *A.* and *G. S.* as daughters and coheirs of the said *G. S.* late the wife of the said *J. S.* whereby the same *J. F.* and *E.* his wife, *A.* and *G. S.* into the same fifth part of the tenements aforesaid with the appurtenances entred, and were, to wit, the same *J. F.* and *E.* his wife, seised in the right of the same *E.* and the said *A.* and *G. S.* seised in their own proper rights in their demesne as of fee, at the will of the Lord, according to the custom of the manor aforesaid; and being so thereof seised, the same *J. F.* and *E.* his wife, *A.* and *G. S.* on the said first day of *January* in the 9th year aforesaid, at *B.* aforesaid, by the indenture aforesaid in the declaration aforesaid above second mentioned, demised the same fifth part of the tenements aforesaid with the appurtenances to the same *William Fisher*; To have and to hold to the said *William Fisher* and his assigns from the said feast of the Birth of our Lord then last past unto the full end and term aforesaid of seven years from thence next ensuing and fully to be compleat and ended: By virtue of which said demise the same *William Fisher* into the same fifth part of the tenements aforesaid with the appurtenances entred, and was thereof possessed until the said *James* and *John Nicholls* afterwards, to wit, on the same first day of *January* in the 9th year aforesaid, into the same fifth part of the tenements aforesaid with the appurtenances in and upon the possession of him the said *William Fisher* entred, and him the said *W. F.* from his farm aforesaid thereof, his term aforesaid therein not yet expired, ejected, expelled and amoved, in manner and form as the same *William Fisher* above thereof against the said *James* and *John Nicholls* complains: And this he is ready to verify: Wherefore he prays judgment, and his damages by reason of the said trespass and ejectment, to be adjudged to him, &c.

Judgment was given for the plaintiff on demurrer.

H h h

Elegit.

Elegit.

Mountfort against The Lord Griffin.

*Elegit in debt
in C. B.
Pract. Reg.
507. 510.*

13 E. 1. c. 18.

Another re-
turnable *tres*
Mich.

Another re-
turnable
Obab. Hill.

Defendant
created a ba-
ron.
King *J.* ab-
dicated.

Court not
open.

Proceedings
revived and
continued to
15 Pasch. by
1 W. & M.
c. 4.

Pract. Reg.
36.

Another re-
turnable *Gro.*
Trin.

Another re-
turnable 15
Martini.
Inquisition
return'd.

Defendant
seised in fee.

AND the said *Edward* in mercy, &c. Afterwards, to wit, on the 17th day of *May* in this same term the said *Samuel* comes here into court by his attorney aforesaid, and by the statute, &c. elects to be delivered to him all the goods and chattels of the said *Edward*, except his oxen and the beasts of his plough, and likewise one half of all his lands and tenements in the county of *North'ton*, to hold to himself the goods and chattels aforesaid as his own proper goods and chattels, and also to hold the one half aforesaid as his freehold to him and his assigns, according to the form of the statute aforesaid until the debt and damages aforesaid shall be thereout levied; and it is granted to him returnable here in the morrow of the Holy *Trinity*: On which day here comes the said *Samuel* by his attorney aforesaid, and the sheriff hath done nothing therein, nor returned the writ thereof: Therefore as before let another writ thereof be made to him in form aforesaid, returnable here from the day of *St. Michael* in three weeks: On which day here comes the said *Samuel* by his attorney aforesaid, and the sheriff hath done nothing therein, nor returned the writ thereof: Therefore as before let another writ thereof be made to him in form aforesaid, returnable here in the Octave of *St. Hillary*: Before which day the Lord King *James* the Second by his letters patent duly made and sealed under his great seal of *England*, bearing date at *Westminster* the 30th day of *November* in the fourth year of his reign, ordained and created the said *Edward* a Baron of this kingdom of *England*, by the name of *Edward* Baron *Griffin* of *Baybrooke* in the county of *North'ton*; before which said Octave of *St. Hillary* the said Lord King *James* the Second abdicated himself from the government of his kingdom of *England*, on which day the same writ remained without day, because the court of Bench here was not then held nor open: But afterwards by virtue of a certain act of Parliament made at *Westminster* in the county of *Middlesex* on the 13th day of *February* in the first year of the reign of the Lord and Lady *William* and *Mary* King and Queen of *England*, &c. it was revived, continued and adjourned unto fifteen days of *Easter* next following: On which day here comes the said *Samuel* by his attorney aforesaid, and the sheriff hath done nothing therein, nor returned the writ thereof: Therefore as before let another writ thereof be made to him in form aforesaid, returnable here in the morrow of the Holy *Trinity*: On which day here comes the said *Samuel* by his attorney aforesaid, and the sheriff hath done nothing therein, nor returned the writ thereof: Therefore as before let another writ thereof be made to him in form aforesaid, returnable here from the day of *St. Martin* in fifteen days: On which day here comes the said *Samuel* by his attorney aforesaid, and the sheriff, to wit, *Richard Lockwood*, Esq; now returns here a certain inquisition taken before him at the town of *North'ton* in the county of *North'ton* aforesaid on the 21st day of *November* last past by the oath of twelve, &c. whereby it is found that the said *Edward* from the day of *Easter* in fifteen days in the first year of the reign of the said Lord *James* the Second late King of *England*, &c. was seised in his demesne as of fee of and in one messuage, and of and in one close of pasture with the appurtenances called the *Park*, to the said messuage adjoining, containing by estimation 25 acres, situate, lying and being in *Dingley* in the county aforesaid, now or late in the tenure or occupation of *James Griffin*, Esq; or his assigns, of the clear yearly value,

in all issues beyond reprises, of 10 *l.* and of and in one other close of pasture with the appurtenances called the *Nesher-Grounds*, containing by estimation 250 acres, lying and being in *Dingley* aforesaid in the county aforesaid, now or late in the tenure or occupation of *Thomas Durwant* or his assigns, of the clear yearly value, in all issues beyond reprises, of 100 *l.* and of and in, &c. And it is farther found by the said inquisition, that the said *The moiety set forth;* messuage called the *Castle* in *Brabrooke* aforesaid, and the said five several closes called the *Parke*, the *Grange*, the *New Close*, the *Butt Close* and the *Busb Close*, with the appurtenances in the tenure or occupation of the said *John Stone* or his assigns, the said closes of pasture called the *Cottiers Close* and *Armitage Close* with the appurtenances in the tenure or occupation of the said *John Stone* or his assigns, the said close of pasture called the *Faribest Close* with the appurtenances in the tenure or occupation of the said *Richard Maunton* or his assigns, the said messuage, forty acres of arable land, fifteen acres of meadow and thirty acres of pasture in the tenure or occupation of the said *John Underwood* or his assigns, which said several messuages, closes of land and tenements aforesaid last mentioned, situate, lying and being in *Brabrooke* aforesaid in the county aforesaid, are an equal, full and just moiety of the premises aforesaid by the inquisition aforesaid in form aforesaid found; which delivered to the said moiety last mentioned the same sheriff on the day of the taking of the said inquisition the plaintiff, caused to be delivered to the said *Samuel Mounifort* at the price and extent aforesaid, to hold, &c. to hold the said moiety as his freehold to him and his assigns, until he shall thereout fully levy the debt and damages aforesaid; and it is by the same inquisition farther found, that the said *Edward Lord Griffin* hath no goods or chattels, nor on the day of the rendition of the judgment aforesaid, or ever after, unto the day of the caption of the same inquisition, had any other or more lands or tenements in the county of *North'ton* aforesaid to the notice of the jurors of the inquisition aforesaid. *hath no other, &c.*

Butter, widow, against Britland, Esq;

AN inquisition indented, taken at *Knutsford* in the county of *Chester* 11th day of *October* in the 7th year of the reign of our Lord *George* now King of *Great Britain*, &c. before me *T. Brooke*, Bart. Sheriff of the county of *Chester* aforesaid, by virtue of the writ of the said Lord the King to me directed, and to this inquisition annexed, by the oath of *John Shellorne*, *Benjamin Harrison*, &c. good and lawful men of my bailiwick, who being sworn and charged say on their oath, that *George Britland*, Esq; in the writ aforesaid to this inquisition annexed named, at the time of the rendition of the judgment aforesaid, to wit, on *Thursday* next after the Octave of *St. Hillary* in *Hillary* term in the 4th year of the reign of the said Lord the now King, on which day the judgment thereof was given against him, and also on the day of the caption of this inquisition, was seised in his demesne as of fee of and in one capital messuage or farm, and of divers pieces and parcels of arable land, meadow and pasture to the same messuage belonging and with the same enjoyed, containing by estimation 50 acres of the clear yearly value, in all issues beyond reprises, 42 *l.* situate, lying and being in *Hollingworth* in the county aforesaid, and now in the tenure or occupation of the said *George Britland* or his assigns; and also of and in two closes or parcels of land arable, meadow and pasture, containing by estimation 10 acres of the clear yearly value, in all issues beyond reprises, 40 *s.* lying and being in *Hollingworth* aforesaid in the county aforesaid, and now in the tenure or occupation of *John Beely* or his assigns; and also of and in one water corn-mill of the clear yearly value, in all issues beyond reprises, 20 *s.* situate, lying and being in *Hollingworth* aforesaid in the county aforesaid, and now in the tenure or occupation of the said *G. B.* or his assigns; and also of and in all that annual rent or fee-farm 11 *s.* 10 *d.* of lawful money of *Great Britain* issuing or reserved from or out of a messuage or farm in *Romily* in the county aforesaid, the inheritance of *John Answorth*: And the jurors aforesaid on their oath aforesaid farther say, that the said capital messuage or farm, with the said several pieces of land arable, meadow and pasture to the same messuage belonging and with the same enjoyed, containing by estimation 50 acres of the clear yearly value, in all issues beyond reprises, 42 *l.* in the tenure or occupation of the said *George Britland* or his assigns, and the said water corn-mill with the appurtenances of the clear yearly value, *The return of an Elegit in debt after a Scire fac.* *The defendant seised in fee of messuages, &c.* *Take great care to make both moieties equal.*

The moiety
set out to the
plaintiff to
hold, &c.

lue, in all issues beyond reprises, 20 s. in the tenure or occupation of the said *George Britland*, are a true and equal moiety of all and singular the lands, tenements and hereditaments whatsoever in the county of *Chester* of the said *George Britland* in the said writ named; which said moiety I the said sheriff have on the day of the caption of this inquisition caused to be delivered to the said *Grace Butler*, widow, in the said writ named, to hold to her and her assigns as her freehold, according to the form of the statute thereof made and provided, until the residue of the debt and damages in the writ aforesaid specified shall be thereout fully levied, as the writ aforesaid commands and requires: And the jurors aforesaid on their oath aforesaid farther say, that the said *George Britland* in the said writ named, at the time of the rendition of the judgment aforesaid in the said writ specified, had not, nor on the day of the caption of this inquisition has, any other or more lands or tenements, or any goods or chattels in the county aforesaid, to the knowledge of the jurors aforesaid: In witness whereof as well I the said sheriff as the jurors aforesaid to this inquisition have set our seals, the day, year and place aforesaid.

This must be in the Exchequer. If the sheriff deliver more than the moiety, it is void.
Salk. 563.

Error.

Error.

Gage, Esq; against Aiton, widow, administratrix, &c.

THE Lady the Queen sent to our trusty and well beloved *John Holt*, Knt. our chief justice assigned to hold pleas before us, her writ close in these words, to wit, *Anne* by the grace of God of *Great Britain, France and Ireland* Queen, defender of the faith, &c. to our trusty and well beloved *John Holt*, Knt. our chief justice assigned to hold pleas before us, greeting: Whereas in a statute made in the parliament of the Lady *Elizabeth*, late Queen of *England*, held at *Westminster* the 23d day of *November* in the 27th year of her reign, it was among other things enacted by the authority of the same parliament, that where any judgment should at any time then after be given in the court of the King's Bench in any suit or action of debt, detinue, covenant, account, action upon the case, *ejectione firme* or trespass, first commenced or first to be commenced there (other than such only where we should be party), the party plaintiff or defendant, against whom any such judgment should be given, might at his election sue forth out of the court of Chancery a special writ of error to be devised in the said court of Chancery, directed to the chief justice of the said court of the King's Bench, commanding him to cause the said record and all things concerning the said judgment to be brought before the justices of the Common Bench and the Barons of the Exchequer into the Exchequer Chamber, there to be examined by the said justices of the Common Bench and Barons aforesaid: Which said justices of the Common Bench and such Barons of the Exchequer as are of the degree of the coif, or six of them at the least, by virtue of the same act thereupon have full power and authority to examine all such errors as be assigned or found in or upon any such judgment, and thereupon to reverse or affirm the said judgment as the law requires, other than for errors to be assigned or found for or concerning the jurisdiction of the said court of King's Bench, or for any want of form in any writ, return, plaint, bill, declaration or other pleading, process, verdict, or proceeding whatsoever; and after the said judgment shall be affirmed or reversed, to remove and send back the said record and all things concerning the same into the said court of King's Bench, that such farther proceedings may be thereon had, as well for execution as otherwise, as shall appertain, as in the said statute is more fully contained: And because in the record and proceedings, as also in the rendition of the judgment of a plea which was in our court before us by bill between *Henry Gage*, Esq; and *Elizabeth Aiton*, widow, administratrix of all and singular the goods and chattels which belonged to *John Aiton*, Gent. who died intestate, (as it is said) lately called *John Aiton* of *Ript*, other *Eckington* in the county aforesaid, Gent. for this, that the said *Elizabeth* should render to the said *Henry* 60*l.* there is (as it is said) a manifest error to the great damage of the said *Henry*, as by his complaint we hear: Which said error in no manner concerns us or the jurisdiction of our said court of our King's Bench, or any want of form in any writ, return, plaint, bill, declaration or other pleading, process, verdict or proceeding whatsoever, as we are informed: We therefore willing the error (if any shall be) should according to the form of the statute aforesaid be corrected, and full and speedy justice done to the parties aforesaid in this behalf, command you, that if judgment thereon be given, then the record and proceedings aforesaid, with all things concerning the same before the said justices of the Common Bench and the Barons of our

Error in the
Exchequer
Chamber on
a judgment in
debt in the
King's Bench.
Salk. 325.
Pract. Reg.
518, 536,
593, 594.

27 El. c. 8.

Exchequer aforesaid, into our Exchequer Chamber aforesaid on *Saturday*, to wit, the 25th day of *October* next ensuing, you cause to be brought; that the said justices and barons, the record and proceedings aforesaid being seen and examined, may farther cause to be done therein what of right and according to the form of the statute aforesaid shall be to be done: Witness ourself at *Westminster* the 8th day of *July* in the sixth year of our reign.

Wychffe.

The answer of John Holt, Knt. chief justice within named.

The record and proceedings of the plea whereof mention is within made, with all things concerning the same, to the justices and barons within specified at the day and place within contained, I certify in a certain schedule to this writ annexed, as I am within commanded.

J. Holt.

Pleas before the Lord the King at Westminster of Hillary term in the ninth year of the reign of the Lord William the Third, now King of England, &c. Roll 293.

Warrant of
attorney for
the plaintiff.

Sussex, to wit. **H**ENRY Gage, Esq; puts in his place Nathaniel Trayton his attorney against Elizabeth Aston, widow, administratrix of all and singular the goods and chattels, rights and credits, which belonged to John Aston, Gent. deceased, who died intestate, lately called John Aston of Ripe, otherwise Eckington in the county aforesaid, Gent. in a plea of debt.

The like for
the defendant.

Sussex, to wit. **E**lizabeth Aston, widow, administratrix of all and singular the goods and chattels, rights and credits, which belonged to John Aston, Gent. deceased, who died intestate, lately called John Aston of Ripe, otherwise Eckington in the county aforesaid, Gent. puts in her place John Lilly her attorney against Henry Gage, Esq; in a plea of debt.

Debt for rent
on articles a-
gainst an ad-
ministratrix.

Sussex, to wit. **B**E it rememberd, that otherwise, to wit, in *Trinity* term last past, before the Lord the King at *Westminster* came Henry Gage, Esq; by Nathaniel Trayton his attorney, and produced here in the court of the said Lord the King then there his certain bill against Elizabeth Aston, widow, administratrix of all and singular the goods and chattels, rights and credits, which belonged to John Aston, Gent. deceased, who died intestate, lately called John Aston of Ripe, otherwise Eckington in the county aforesaid, Gent. in the custody of the marshal, &c. in a plea of debt; and there are pledges to prosecute, to wit, John Doe and Richard Roe; which said bill follows in these words, to wit, *Sussex*, to wit, Henry Gage, Esq; complains of Elizabeth Aston, widow, administratrix of all and singular the goods and chattels, rights and credits, which belonged to John Aston, Gent. deceased, who died intestate, lately called John Aston of Ripe, otherwise Eckington in the county aforesaid, Gent. being in the custody of the marshal of the *Marshalsea* of the Lord the King before the King himself, in a plea that she render to him 60*l.* of lawful money of *England*, which she unjustly detains from him, for this, to wit, that whereas by certain articles made at *Hailsham* in the county aforesaid, on the 11th day of *January* in the year of the Lord 1689, between the said Henry, by the name of Henry Gage of *Brambletye* within the parish of *Eastgrimstead* in the county of *Sussex*, Esq; of the one part, and the said John, by the name of John Aston of Ripe, otherwise Eckington in the county aforesaid, Gent. of the other part, the other part whereof sealed with the seal of the said John the same Henry here in court produces, bearing date the same day and year, the said Henry demised to the said John Aston all those two several pieces or parcels of land called the *Deanes*, containing by estimation 22 acres, with the appurtenances in *Hailsham* aforesaid in the county aforesaid, and also all those four pieces of marsh-land called *Homstall Marsh*, containing by estimation 32 acres, with the appurtenances in *Hailsham* aforesaid; To hold to the said John Aston, his executors and administrators, from the feast of the Birth of our Lord then last past for 11 years, at and under the yearly rent of 30*l.* to be paid

paid half-yearly during the said term, to wit, on the feasts of St. John the Baptist and the Birth of our Lord by equal portions, or within 21 days after those feasts, as by the said articles more fully is manifest and appears: By virtue of which said demise the same John Alton into the demised premises with the appurtenances entred, and was thereof possessed until to and upon the feast of the Birth of our Lord in the year of the Lord 1696, and for 21 days then next following, and 60*l.* of the rent aforesaid for two years ended at the said feast of the Birth of our Lord in the year of the Lord 1696, and for the space of 21 days then next following, in the life-time of the said John were in arrear and yet are unpaid; whereby an action accrued to the same Henry to demand and have of the said John Alton in his life-time, and of the said Elizabeth after the death of him the said John (to which said Elizabeth administration of all and singular the goods and chattels, rights and credits, which belonged to the said John at the time of his death, after his death at Hailsham aforesaid in the county aforesaid was committed) the said 60*l.* Nevertheless the said John in his life-time, and the said Elizabeth after his death, altho' often required, &c. the said 60*l.* to the same Henry have not yet paid, but have hitherto altogether refused to pay him the same, and the said Elizabeth doth yet refuse, to the damage of the said Henry 20*l.* And therefore he produces the suit, &c.

And now on this day, to wit, Monday next after the Octave of St. Hillary in this same Imparlance term, until which day the said Elizabeth had leave to imparl to the bill aforesaid, and then to answer, &c. before the Lord the King at Westminster comes as well the said Henry Gage by his attorney aforesaid, as the said Elizabeth Alton by John Lilly her attorney: And the same Elizabeth defends the force and injury when, &c. and as to 30*l.* parcel of the said 60*l.* in the declaration aforesaid mentioned to be in arrear of the rent aforesaid for the first year of the said two years, the same Elizabeth says, that she doth not detain from the said Henry the same 30*l.* nor any parcel thereof, in manner and form as the said Henry above against her complains: And of this she puts herself on the country: And the said Henry thereof likewise, &c. And as to the other 30*l.* residue of the said 60*l.* the same Elizabeth says, that the said Henry Gage ought not to have or maintain his action aforesaid thereof against her, because she says, that in the life-time of the said John, and while she the said Elizabeth was sole, to wit, on the 20th day of January 1686, at Hailsham aforesaid in the county aforesaid, he the said John Alton, by the name of John Alton of Ripe in the county of Sussex, Gent. by his certain writing obligatory sealed with the seal of the said John, and to the court of the said Lord the King now here shewn, bearing date the said 20th day of January 1686 aforesaid, acknowledged himself to be held and firmly bound to the said Elizabeth while she was sole, then by the name of Elizabeth Reynolds of Ripe in the county aforesaid, spinster, in 2000*l.* of lawful money of England, to be paid to the same Elizabeth when he should be thereto after required, with a condition to the said writing obligatory subscribed, reciting, that whereas a marriage was by the blessing of God in a short time to be solemnized between the said John Alton and her the said Elizabeth, so that if the said Elizabeth should survive him the said John, and that the said John should die before the said Elizabeth, then if the said John Alton should leave, or if his heirs, executors or assigns, should well and truly pay, or cause to be paid, to the said Elizabeth, her executors, administrators or assigns, the full and whole sum of 1000*l.* of lawful money of England within one month after the death of the said John Alton, without fraud or deceit, that then the obligation aforesaid should be void, otherwise to stand and remain in full force and virtue, as by the writing obligatory aforesaid, and the condition of the same writing obligatory here in court produced, more fully appears: And the same Elizabeth farther says, that afterwards, to wit, on the first day of March 1686 aforesaid, at Hailsham aforesaid in the county aforesaid, she the said Elizabeth took for her husband the said John Alton, and afterwards, and before the exhibition of the said bill of the said Henry, to wit, on the first day of March 1696, he the said John Alton at Hailsham aforesaid in the county aforesaid died intestate, and did not leave to the said Elizabeth the sum of 1000*l.* nor any penny thereof, and that at any time after the death of the said John Alton hitherto the sum of 1000*l.* or any part thereof, hath not been paid by the heirs or assigns of the said John Alton, or any of them: And the same Elizabeth farther says, that after the death of the said John, to wit, on the 13th day of March in the year of the Lord 1696, at Hailsham aforesaid in the county aforesaid, administration of all and singular the goods and chattels, rights and credits, which belonged to the said John Alton at the time of his death, to the same Elizabeth by Thomas Briggs, Doctor of Laws commissary or official principal of the Reverend Father in Christ John by divine permission Lord Bishop of Chester, in and through the whole archdeanary of Lewis in the diocese of Chester lawfully constituted, to whom the commission

As to 30*l.* she doth not detain.

As to the residue, that the intestate gave her a bond before marriage to leave her 1000*l.*

But did not leave her 1000*l.*

Administration granted. Pract. Reg. 37. 43.

230 l. came to
her hands af-
ter administra-
tion, which
she retains.

of the administration aforesaid of right belonged, in due form of law was committed: After the commission of which said administration divers goods and chattels which belonged to the said *John* at the time of his death to the value of 230 l. and not more, by virtue of the administration aforesaid came to the hands of her the said *Elizabeth*, to wit, at *Hailbam* aforesaid in the county aforesaid; which said goods and chattels the same *Elizabeth* retains in her hands in part of satisfaction of the writing obligatory aforesaid: And the same *Elizabeth* farther says, that on the day of the exhibition of the bill aforesaid of him the said *Henry*, or before or ever after, no other or more goods and chattels which belonged to the said *John* at the time of his death came to her hands, except the said goods and chattels to the value of the said 230 l. and no more, and which are not sufficient to satisfy the same *Elizabeth* the said sum of 1000 l. in the condition of the writing obligatory aforesaid mentioned: And this she is ready to verify: Wherefore she prays judgment if the said *Henry* ought to have or maintain his action aforesaid thereof against her, &c. with this, that the same *Elizabeth* will verify that the writing obligatory aforesaid yet remains in its full force and effect not annulled or satisfied, and that the said *John Alton* in the writing obligatory aforesaid mentioned, and *John Alton* in the declaration and plea aforesaid mentioned, are one and the same person, and not other nor divers.

Edw. Northey.

Demurrer.

And the said *Henry Gage* says, that he by any thing by the said *Elizabeth* above in pleading alledged ought not to be precluded from his action aforesaid thereof against the said *Elizabeth* had, because he says, that the plea aforesaid by the said *Elizabeth* in manner and form aforesaid above pleaded, and the matter in the same contained, are not sufficient in law to preclude him the said *Henry* from his action aforesaid thereof against the said *Elizabeth* had; to which said plea he the same *Henry* hath no necessity, nor is by the law of the land obliged, in any manner to answer: And this he is ready to verify: Wherefore for want of a sufficient answer in this behalf the same *Henry* prays judgment and his debt aforesaid, together with his damages by reason of the detention of the said debt, to be adjudged to him, &c.

Joinder.

And the said *Elizabeth* says, that the plea aforesaid by her the said *Elizabeth* in manner and form aforesaid above pleaded, and the matter in the same contained, are good and sufficient in law to preclude the said *Henry* from his action aforesaid thereof against the said *Elizabeth* had; which said plea, and the matter in the same contained, she the said *Elizabeth* is ready to verify and prove, as the court, &c. And because the said *Henry* doth not answer the said plea, nor hitherto any way deny the same, she the said *Elizabeth* as before prays judgment, and that the said *Henry* may be precluded from his action aforesaid thereof against her had; but because the court of the said Lord the King now here are not yet advised to give their judgment of and upon the premisses, day therefore is given to the parties aforesaid before the Lord the King at *Westminster* until *Wednesday* next after 15 days of

Continuance.

Easter.

Easter to hear their judgment of and upon those premisses, because the court of the said Lord the King now here thereof not yet, &c. On which day before the Lord the King at *Westminster* come the parties aforesaid by their attornies aforesaid; but because the court of the said Lord the King now here are not yet advised to give their judgment of and upon the premisses, day therefore is given to the parties aforesaid before the Lord the King at

Trinity.

Westminster until *Friday* next after the morrow of the Holy *Trinity* to hear their judgment thereon, because the court of the said Lord the King now here thereof not yet, &c. On which day before the Lord the King at *Westminster* come the parties aforesaid by their said attornies; but because the court of the said Lord the King now here are not yet advised to give their judgment of and upon the premisses, day therefore is given to the parties aforesaid before the Lord the King at *Westminster* until *Monday* next after three weeks of St.

Michaelmas.

Michael to hear their judgment thereon, because the court of the said Lord the King now here thereof not yet, &c. On which day before the Lord the King at *Westminster* come the parties aforesaid by their attornies aforesaid; but because the court of the said Lord the King now here are not yet advised to give their judgment of and upon the premisses, day therefore is given to the parties aforesaid before the Lord the King at *Westminster* until

Hillary.

Monday next after the Octave of St. *Hillary* to hear their judgment thereon, because the court of the said Lord the King now here thereof not yet, &c. On which day before the Lord the King at *Westminster* come the parties aforesaid by their attornies aforesaid; but because the court of the said Lord the King now here are not yet advised to give their judgment of and upon the premisses, day therefore is given to the parties aforesaid before the Lord the King at *Westminster* until *Wednesday* next after 15 days of *Easter* to

Easter.

hear their judgment thereon, because the court of the said Lord the King now here thereof not yet, &c. On which day before the Lord the King at *Westminster* come the parties aforesaid by their attornies aforesaid; but because the court of the said Lord the King now here are not yet advised to give their judgment of and upon the premisses, day

day therefore is given to the parties aforesaid before the Lord the King at *Westminster* until *Trinity*. Friday next after the morrow of the Holy *Trinity* to hear their judgment thereon, because the court of the said Lord the King now here thereof not yet, &c. On which day before the Lord the King at *Westminster* come the parties aforesaid by their attornies aforesaid; but because the court of the said Lord the King now here are not yet advised to give their judgment of and upon the premisses, day therefore is given to the parties aforesaid before the Lord the King at *Westminster* until *Monday* next after three weeks of *St. Michael* to hear their judgment thereon, because the court of the said Lord the King now here thereof not yet, &c. On which day before the Lord the King at *Westminster* come the parties aforesaid by their attornies aforesaid; but because the court of the said Lord the King now here are not advised to give their judgment of and upon the premisses, day therefore is given to the parties aforesaid before the Lord the King at *Westminster* until *Saturday* in fifteen days of *St. Hillary* to hear their judgment thereon, because the court of the said Lord the King now here thereof not yet, &c. On which day before the Lord the King at *Westminster* come the parties aforesaid by their attornies aforesaid; whereupon all and singular the premisses being seen, and by the court of the said Lord the King now here more fully understood, and mature deliberation being thereon had, it seems to the court of the said Lord the King now here, that the plea aforesaid by the said *Elizabeth* in manner and form above pleaded, and the matter in the same contained, are good and sufficient in law to preclude the said *Henry* from his action aforesaid thereof against the said *Elizabeth* had: It is therefore considered, that the said *Henry Gage* take nothing by his bill aforesaid, but for his false plaint be thereof in mercy: And the said *Elizabeth Aiton* may go thence without day, &c. And it is farther considered, that the said *Elizabeth Aiton* recover against the said *Henry Gage* 14 l. 10 s. for her costs and charges by her about her defence in this behalf sustained, to the same *Elizabeth* by the court of the said Lord the King now here with her assent, according to the form of the statute in 23 H. 8. c. 15. such case made and provided, adjudged: And the said *Elizabeth Aiton* may have thereof execution, &c.

Michaelmas.

Hillary.
Pref. to Lilly
of Assise.Judgment for
the defendant,
signed 21 Feb.
1699.

23 H. 8. c. 15.

Adjudged in this case that the debt was only suspended, not extinguished. See Salk. 327.

Twitty and Bell against Morley.

AND it is to be known, that after the judgment aforesaid was given, and before this day, to wit, the 29th day of *May* in the fourth year of the reign of the now Lord the King, the said *George Twitty* died, to wit, at *London* aforesaid in the parish and ward aforesaid: And the said *John Bell* on the said *Octave* of the Holy *Trinity* by *Stretbill Harrison* his attorney comes here into court and immediately says, that there is no error in the record and proceedings aforesaid, nor in the rendition of the judgment aforesaid, and prays that the court of the said Lord the King now here may proceed to the examination as well of the record and proceedings aforesaid, as the matters aforesaid above for error assigned, and that the judgment aforesaid may in all things be affirmed, &c.

Suggests the
death of one
of the defend-
ants, and
then pleads no
error.See 18 Car. 2.
Pract. Reg.
395.

Aiton and Sumner.

Chester, to wit. BEFORE it remembered, that otherwise, to wit, in *Trinity* term last past before the Lady *Anne* late Queen of *Great Britain*, &c. came *John Sumner* by *J. Whisbaw* his attorney, and produced here in the court of the said Lady the Queen then there his certain bill against *Richard Aiton*, *Ralph Maddock* and *Robert Wilcoxson*, in the custody of the marshal, &c. in a plea of trespass: And there are pledges to prosecute, to wit, *John Doe* and *Richard Roe*: Which said bill follows in these words, to wit, *Chester*, to wit, *John Sumner* complains of *Richard Aiton*, *Ralph Maddock* and *Robert Wilcoxson*, being in the custody of the marshal of the *Marshalsea* of the Lady the Queen before the Queen herself, for this, that they the said *Richard*, *Ralph* and *Robert*, 29th day of *March* in the year of the Lord 1714, with force and arms the house and stables of him the said *John* at *Whitegate* in the county of *Chester* aforesaid broke and entered, and the gelding of him the said *John* of the price of 10 l. at the parish of *Whitegate* aforesaid then found, took and carried away, and other outrages on the said *John* then and there committed, against the peace of the said Lady the now Queen, and to the damage of him the said *John* 20 l. And therefore he produces the suit, &c.

Error in an
action in the
King's Bench
for a trespass
in the county
of *Chester*.

K k k

And

Imparlarice.

And now on this day, to wit, *Monday* next after the *Octave* of *St. Hillary* in this same term, until which day the said *Richard, Ralph* and *Robert* had leave to imparl to the bill aforesaid, and then to answer, &c. before which day the said Lady the *Queen* departed this life, before the Lord *George* now King of *Great Britain, &c.* at *Westminster* come as well the said *John* by his attorney aforesaid, as the said *Richard, Ralph* and *Robert*, by *Nathaniel Hickman* their attorney: And the same *Richard, Ralph* and *Robert* defend the force and injury when, &c. and as to the coming with force and arms, and whatever is against the peace of the Lady the late *Queen*, say, that they are in no wise guilty thereof: And of this they put themselves on the country: And the said *John* thereof likewise: And as to the residue of the trespass above supposed to be committed, the same *Richard, Ralph* and *Robert* say, that the said *John* ought not to have or maintain his action aforesaid thereof against them, because they say, that at the time when the residue of the trespass aforesaid is sup-

Justification of the taking for a poor's rate.

posed to be committed, the same *Richard* and *Ralph* were overseers of the poor of the town of *Over* in the county of *Chester* aforesaid, and the said *Robert* was one of the constables of the same town lawfully appointed; and that they the same *Richard* and *Ralph* as overseers of the town aforesaid, and the said *Robert* at the request and in aid of the said *Richard* and *Ralph*, by the authority and according to the tenure, purport and effect of a certain act made and provided in a parliament of the Lady *Elizabeth* late *Queen* of *England*, held at *Westminster* in the county of *Middlesex* in the 43d year of her reign, at the said time when, &c. the house and stables of the said *John*, within the town aforesaid in the said parish of *Whitegate* in the county of *Chester* aforesaid, broke and entered, and the said gelding of him the said *John* at the parish of *Whitegate* aforesaid then and there found, took and carried away: And this they are ready to verify: Wherefore they pray judgment if the said *John* ought to have or maintain his action aforesaid thereof against them, &c.

43 El. c. 2.
§. 19.Repl. *De injuria sua propria.*

And the said *John*, as to the said plea of the said *Richard, Ralph* and *Robert* above last pleaded, says, that he by any thing in that behalf pleaded ought not to be precluded from his action aforesaid thereof against them had, because he says, that the said *Richard, Ralph* and *Robert* committed the said residue of the trespass aforesaid in the same plea mentioned, in the form as the same *John* above thereof against them complains, of their own wrong without such cause by them in that behalf pleaded: And this he prays may be inquired of

Suggestion.

by the country: And the said *Richard, Ralph* and *Robert* likewise, &c. And because the several issues aforesaid between the parties aforesaid above joined ought to be tried by the men of the county palatine of *Chester*, where the writ of the Lord the King doth not run, and not elsewhere: Therefore let the record of the plea aforesaid be sent to the justices of the said Lord the King of the said county of *Chester*, so that the same justices, by writ of the said Lord the King of that county duly to be made, may cause the sheriff of the same county to be commanded that he cause to come before the same justices of the said Lord the King of the county of *Chester* aforesaid, at the next sessions for that county after that record shall be delivered to them, twelve free and lawful men of the body of the county palatine of *Chester* aforesaid, by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. And when that averment and those issues shall be made out and tried, that then the said justices the record of the plea aforesaid, with all that which shall be therein done in the court of the said Lord the King there before them, may send to the Lord the King at *Westminster*, at a certain day which the same justices of the county palatine aforesaid to the parties aforesaid in the same court there shall before appoint, to hear thereof their judgment, &c. And it is said to the said *John* that he prosecute with effect, at his peril, &c. Afterwards, to wit, from the day of *Easter* in one month thence next following, which said day the said *John*, and the said *Richard, Ralph* and *Robert*, had by the appointment of *Joseph Jekyll*, Knt. serjeant of the said Lord the King at law, justice of the said Lord the King of *Chester*, and *Edward Jeffries*, Esq; another justice of the said Lord the King of the county aforesaid, to hear thereof their judgment here, to wit, at *Westminster*, comes the said *John* by his attorney aforesaid: And the said justices at *Chester* send here the record aforesaid with all that was done before them at *Chester* in these words, to wit, And afterwards, to wit, at the sessions of *Chester*, held at *Chester* in the county of *Chester* in the common hall of pleas of the county aforesaid on *Monday*, to wit, 11th day of *April* in the 1st year of the reign of the Lord *George* by the grace of God of *Great Britain, &c.* before *Jo. Jekyll*, Knt. serjeant of the said Lord the King at law, justice of the said Lord the King of *Chester*, and *E. Jeffries*, Esq; another justice of the said Lord the King of the county aforesaid, being the next sessions for the county aforesaid after the within written record was delivered to the said justices, here come as well the said *John Sumner* by *L. G.* his attorney, as the within named *Richard, Ralph* and *Robert*, by *J. B.* their attorney; and the said *John* prays a writ of the Lord the King to cause to come 12, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. to be directed to the sheriff of the county of *Chester* aforesaid to try the issue within written; and it is granted to him, returnable here on *Tuesday* next coming in this same sessions: The same day is given to the parties aforesaid here, &c. On which *Tuesday* before the said justices here come as well the said *John Sumner*, as the said

The postea.

Richard

Richard Aston, Ralph Maddock and Robert Wilcoxon, by their attornies aforesaid; and *Richard Waltball, Esq;* the sheriff of the county aforesaid, now returns here the writ of *Venire facias*. *Venire facias* aforesaid to him in form aforesaid directed, together with a panel of the names of the jury to that writ annexed, in all things executed; and the jurors thereof impanelled being called, none of them come; therefore that jury is respited here until *Wednesday* next coming in this same sessions for want of jurors, &c. And the sheriff of the county aforesaid is commanded, that he then have here the bodies of the jurors aforesaid, and that he add to them a *decem tales* against the same day, &c. The same day is given to the parties aforesaid here, &c. On which *Wednesday* before the said justices here come as well the said *John Sumner*, as the said *Richard Aston, Ralph Maddock and Robert Wilcoxon*, by their attornies aforesaid; and the said sheriff of the county aforesaid now returns here the writ of *Habeas corpora* aforesaid to him in form aforesaid directed, together with a panel, as well of the names of the jurors aforesaid first impanelled, as of the names of the *decem tales* added anew to the said writ annexed, in all things served and executed; and the jurors thereof impanelled being called, to wit, *John Stubbs of Blackenball, Gent. &c.* (reciting all the twelve) come, who to say the truth of the premisses being elected, tried and sworn, say on their oath, that the said *Richard Aston, Ralph and Robert*, committed the residue of the trespass within specified in the same plea mentioned in manner and form as the said *John Sumner* within thereof against them complains, of their own wrong, without such cause by them in that behalf within pleaded, and they assess the damage of him the said *John Sumner* by reason of the premisses aforesaid, beside his costs and charges by him about his suit in this behalf expended, to 30 s. 10 $\frac{1}{2}$ d. and for those costs and charges to 6 s. And upon this the said justices appoint the parties aforesaid to be before the Lord the King at *Westminster* from the day of *Easter* in one month next to come to hear thereof their judgment; but because the court of the said Lord the King now here are not yet advised to give their judgment of and upon the premisses, day therefore is given to the said *John* before the Lord the King at *Westminster* until *Friday* next after the morrow of the Holy *Trinity* to hear their judgment of and upon those premisses, because the court of the said Lord the King here thereof not yet, &c. On which day before the Lord the King at *Westminster* comes the said *John* by his attorney aforesaid; and because the court of the said Lord the King now here are not yet advised to give their judgment of and upon the premisses, day therefore is farther given to the said *John* before the Lord the King at *Westminster* until *Monday* next after three weeks of *St. Michael* to hear their judgment of and upon those premisses, because the court of the said Lord the King here thereof not yet, &c. On which day before the Lord the King at *Westminster* comes the said *John* by his attorney aforesaid; and because the court of the said Lord the King now here are not yet advised to give their judgment of and upon the premisses, day therefore is farther given to the said *John* before the Lord the King at *Westminster* until *Monday* next after the Octave of *St. Hillary* to hear their judgment of and upon those premisses, because the court of the said Lord the King here thereof not yet, &c. On which day before the Lord the King at *Westminster* comes the said *John* by his attorney aforesaid; and because the court of the said Lord the King now here are not yet advised to give their judgment of and upon the premisses, day therefore is farther given to the said *John* before the Lord the King at *Westminster* until, &c. because the court of the said Lord the King now here thereof not yet, &c. On which day before the Lord the King at *Westminster* comes the said *John* by his attorney aforesaid; upon which all and singular the premisses being seen, and by the court of the said Lord the King here more fully understood, it is considered, that the said *John* recover against the said *Richard Aston, Ralph Maddock and Robert Wilcoxon*, his damages aforesaid, by the jury aforesaid in form aforesaid assessed, as also 28 l. 3 s. 1 $\frac{1}{2}$ d. for his costs and charges aforesaid, to the same *John* with his assent by the court of the said Lord the King now here of increase adjudged, which said damages in the whole amount to 30 l. &c.

Continuance.

Judgment for the plaintiff, sign'd 26 May 1716.

Except. If this action be so local as that it must be brought in the county palatine of *Chester*, and not by *Latitat* out of the King's Bench at *Westminster*. By all the judges and 12 Co. 114. barons adjudged, that the action was well commenced by *Latitat*, and need not be sued in the court of the county palatine. Dy. 263.

But agreed that this might have been pleaded in abatement. *Pract. Reg.* 23.

Howard

Howard and Taylor.

Error coram
vobis residen'.

Afterwards, to wit, on the 9th day of *June* in the second year of the reign of the Lord *George* now King of *Great Britain*, &c. before the same Lord the King at *Westminster* come one *George Sedgemore* and the said *Anne* (who by the name of *Anne Taylor*, otherwise *Seymour* as aforesaid, was impleaded) his wife in their proper persons, and produce here into the court of the said now Lord the King a certain writ of the said Lord the King to correct error of and upon the judgment aforesaid above specified; which said record and proceedings aforesaid in the court of the said Lord the King before the King himself now remain, and pray that the said writ may be allowed; and by the same court here it is allowed to them, &c. which said writ follows in these words, to wit, *George*, &c. To our justices assigned to hold pleas before ourself, greeting: Because in the record and proceedings, and also in the rendition of the judgment of a plea which was in our court before us by bill between *Anne Howard* and *Anne Taylor*, otherwise *Seymour*, in a certain trespass on the case to the same *Anne Howard* by the said *Anne Taylor*, otherwise *Seymour*, committed, as it is said, a manifest error has happen'd, to the great damage of *George Sedgemore* and the said *Anne* his wife, lately called *Anne Taylor*, otherwise *Seymour*, as by their complaint we understand: We willing the error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, command you, that if judgment therein be given, then the record and process aforesaid, which before you now remain, as it is said, being inspected, you farther cause to be done therein to correct that error what of right and according to the law and custom of *England* shall be to be done. *Witness* Ourself at *Westminster* 8th day of *June* in the second year of our reign. *Hart*. Whereupon the said *G. Sedgemore* and *Anne* his wife say, that in the record and proceedings aforesaid, and also in the rendition of the judgment aforesaid, there is a manifest error in this, to wit, that before the day of the exhibition of the bill of the said *Anne Howard* against the said *Anne Sedgemore* by the name of *Anne Taylor*, otherwise *Seymour*, and before the rendition of the judgment aforesaid, to wit, 18th day of *July* 1712, she the same *Anne Howard* took to husband one *George Howard*, to wit, at the parish of *St. Clement Danes* in the county of *Middlesex* aforesaid, and that she the same *Anne* at the time of the exhibition of the bill aforesaid, and at the time of the rendition of the judgment aforesaid, and ever after hitherto was and yet is covert of the said *G. Howard* her husband, to wit, at the parish of *St. Clement Danes* aforesaid in the county of *Middlesex* aforesaid: There is likewise an error in this, to wit, that before the day of the exhibition of the bill aforesaid of the said *Anne Howard* against the said *Anne Sedgemore* by the name of *Anne Taylor*, otherwise *Seymour*, and before the rendition of the judgment aforesaid, to wit, the fifth day of *October* in the second year above said, she the said *Anne Taylor*, otherwise *Seymour*, took to her husband the said *George Sedgemore*, to wit, at the parish of *St. Clement Danes* aforesaid in the county of *Middlesex* aforesaid; and that she the same *Anne* at the time of the exhibition of the said bill, and at the time of the rendition of the judgment aforesaid, and ever after hitherto was and yet is covert of the said *George Sedgemore* her husband, to wit, at the parish of *St. Clement Danes* aforesaid in the county aforesaid: And this they are ready to verify.

The writ of
error.

Coverture in
the plaintiff.

Coverture in
the defendant.

Demurrer.

Joinder.

And the said *Anne Howard* in her proper person freely here in court comes and immediately says, that by any thing by the said *George Sedgemore* and *Anne* his wife above for error assigned the judgment aforesaid ought not to be annulled or reversed, because she says, that the matter aforesaid in manner and form aforesaid by the said *G. Sedgemore* and *Anne* his wife above for error in the judgment and proceedings aforesaid assigned are not sufficient in law to annul or reverse the judgment aforesaid; to which she the same *Anne Howard* hath no necessity, nor is by the law of the land obliged, in any manner to answer: And this she is ready to verify: Wherefore she prays judgment, and that the judgment aforesaid for the same *Anne Howard* against the said *Anne Taylor*, otherwise *Seymour*, in form aforesaid given, may be in all things affirmed, &c.

And the said *George Sedgemore* and *Anne* his wife say, that the errors aforesaid by them the said *George Sedgemore* and *Anne* his wife above in form aforesaid assigned, and the matter in the same contained, are good and sufficient in law to annul and reverse the judgment aforesaid, and to compel the said *Anne Howard* to rejoin to those errors; which said matter the same *G. Sedgemore* and *Anne* his wife are ready to verify and prove, as the court, &c. And because the said *A. Howard* doth not rejoin to those errors, nor hitherto any way deny them, they the same *G. Sedgemore* and *Anne* his wife as before pray that the judgment aforesaid may be reversed, annulled and held as void, and that they may be restored to all things which they by reason of the judgment aforesaid have lost, &c. And because the court of the Lord the King now here are not yet advised to give their judgment of and upon the premisses, day therefore is given to the parties aforesaid before the Lord the King at *Westminster* until to hear their judgment thereon, because the court of the said Lord the King here thereof not yet, &c.

Barnardiston

Barnardiston and Chapman.

Mich. 1 George, Rot. 1433.

AFTERWARDS, to wit, *Tuesday* next after three weeks of *St. Michael* in that same term, before the Lord the King at *Westminster* come the same *Henry Chapman* and *Matthew Smith* by *Edward Layton* their attorney, and say, that in the record and proceedings aforesaid, and also in the rendition of the judgment aforesaid, there is manifest error, in this, to wit, that where by the record aforesaid it appears that judgment is given for the said *Nathaniel* and *Samuel* against them the said *Henry* and *Matthew*; nevertheless the said judgment by the law of the land of this kingdom ought to have been given for the said *H.* and *M.* against the said *N.* and *S.* therefore in that there is manifest error: There is error also in this, to wit, that the original writ of them the said *N.* and *S.* in the plea aforesaid obtained, and now remaining in the custody of the *Custos Brevium* of the said Lord the King of the Bench and of record filed, was obtained out of the court of Chancery of the Lady *Anne* the late Queen at *Westminster* 7th day of *March* in the 13th year of the reign of the same late Queen, returnable in the court of the said Lady the late Queen of the Bench before the justices of the same late Queen at *Westminster*, on the morrow of the *Holy Trinity* then next following; which said writ was directed to the then sheriffs of *London*; and commanded the sheriffs of *London* aforesaid to put by surety and safe pledges them the said *H.* and *M.* by the names of *H. Chapman* late of the parish of *St. Giles Cripplegate* in the county of *Middlesex*, cordwainer, and *M. Smith* late of the parish of *St. Catherine* in the county of *Middlesex*, yeoman, that they might be before the justices of the same late Queen at *Westminster* on the morrow of the *Holy Trinity* aforesaid, to shew why with force and arms they had broke the close of the said *N.* and *S.* and committed other outrages on them, to the great damage of the said *N.* and *S.* and against the peace of the said late Queen, but not for the causes in the declaration aforesaid specified, as by the original writ aforesaid remaining of record in the custody of the said *Custos Brevium* of the now Lord the King of the Bench aforesaid more fully is manifest and appears: And the same *H.* and *M.* in fact say, that the plea aforesaid, and the judgment aforesaid above had and obtained, was had and obtained on that original writ and no other; wherefore for that the writ aforesaid doth not maintain the declaration and the proceedings thereon founded, the same *H.* and *M.* say, that the original writ aforesaid is not sufficient in law, and that the declaration aforesaid and the matter in the same contained is likewise insufficient in law, and likewise not warranted by that original writ; and therefore in that the judgment aforesaid is manifestly erroneous: And the same *H.* and *M.* pray a writ of the said Lord the King to be directed to the said *Custos Brevium*, to certify the said Lord the King more fully of the truth thereof; and it is granted prayed to them, &c. Which said writ of *Certiorari* so prayed and granted follows in these words, to wit, *George* by the grace of God of *Great Britain, France and Ireland* King, defender of the faith, &c. To *Henry* Viscount *St. John*, Baron of *Battersey*, keeper of the writs and rolls of our court of the Bench, greeting: Being willing for certain reasons to be certified, whether a certain original writ of the Lady *Anne* the late Queen, between *N. Barnardiston* and *S. Marriott*, and *H. Chapman* late of the parish of *St. Giles Cripplegate* in the county of *Middlesex*, cordwainer, and *M. Smith* late of the parish of *St. Catherine* in the county of *Middlesex*, yeoman, in a plea why they the said *H.* and *M.* with force and arms had broke the close of them the said *N.* and *S.* at *London*, and committed other outrages on them, to the great damage of them the said *N.* and *S.* and against the peace of the same late Queen, be filed under your custody of record of *Trinity* term in the 13th year of the reign of the same late Queen, or not; We command you, that searching the original writs of the city of *London* of the said *Trinity* term in the 13th year of the reign of the same late Queen abovesaid in your custody filed of record, you without delay certify to us, wheresoever we shall be in *England*, what of the said writ between the parties aforesaid in the plea aforesaid you shall find, together with this writ, Witness *Thomas* Lord *Parker*, Baron of *Macclesfield*, at *Westminster* 23d day of *October* in the 3d year of our reign. Which said keeper of the writs and rolls aforesaid returned and certified to the Lord the King, that by virtue of that writ to him directed, having searched the original writs of the said late Queen of the city of *London* of *Trinity* term in the 13th year of the reign of the said late Queen in his custody filed of record, there is a certain original writ between the parties in the same writ named in the plea in the same writ mentioned in his custody filed of the same term, the tenor of which said writ, together with the return of the same, follows in these words, to wit, *Anne*, &c. To the sheriffs of *London*, greeting: If *N. Barnardiston* and *S. Marriott* shall make you secure to prosecute their suit, then put by sureties and safe pledges *H. Chapman* late of and *M. Smith* late of that they be before our justices

Errors assigned, that the original was a *Clausum* *frs.* *git.*

Averment, that the judgment was obtained on that original which does not warrant the judgment.

A *Certiorari* prayed. The *Certiorari*.

The return of the *Custos Brevium*. Salk. 781, 762.

The original certified.

at *Westminster* in the morrow of the Holy Trinity, to shew why with force and arms they broke the close of the said *Nathaniel* and *Samuel* at *London*, and committed other outrages on him, to the great damage of the said *Nathaniel* and *Samuel* and against our peace: And have there the names of the pledges and this writ. Witness Ourselves at *Westminster* 7 May in the 13th year of our reign. *Hart*. Pledges to prosecute *John Doe* and *Richard Roe*. The within named *Henry* hath nothing in our bailiwick whereby he can be attached,

Joshua Sharpe, Knt. }
and } sheriffs.
Francis Forbes, Knt. }

Scire facias
prayed.

Defendants
appear and
(by protesta-
tion) plead
there is no
error.

Which said writ of *Certiorari*, together with the return of the same, among the records without day of this *Michaelmas* term is filed: And upon this the said *Henry* and *Mattbew* pray a writ of the Lord the King, to warn the said *Nathaniel* and *Samuel* to be before the Lord the King to hear the record and proceedings aforesaid; and it is granted them: And hereupon the said *Nathaniel* and *Samuel* by *John Saunder* their attorney freely here into court immediately come; and (protesting that the original writ (on which the declaration and proceedings aforesaid in the record aforesaid here above certified is founded) was a certain original writ between the parties aforesaid in a certain plea of trespass on the case, according to the tenor and effect of the declaration aforesaid) for plea the same *Nathaniel* and *Samuel* say, that there is no error either in the record and proceedings aforesaid, or in the rendition of the judgment aforesaid; and pray that the court of the Lord the King now here may proceed to examine as well the record and proceedings aforesaid, as the matters aforesaid above for error assigned, and that the judgment aforesaid may be in all things affirmed, &c. But because, &c.

This cause produced the act 5 Geo. for amending writs of error.

Bradshawe and Gower.

Error in debt
qui tam.

England, to wit. THE Lord the King sent to his trusty and well beloved *P. King*, Knt. his chief justice of the Bench, his writ close in these words, to wit, *George*, &c. To our trusty and well beloved *Peter King*, Knt. our chief justice of the Bench, greeting: Because in the record and proceedings, as also in the rendition of the judgment of a plea which was in our court before you and your companions our justices of the Bench by our writ, between *John Bradshawe* who prosecutes as well for us as for himself, and *Henry Glover* late of *London*, clerk, for this, that the same *Henry* should render to us and the said *John* 400 l. as it is said, a manifest error has happened to the great damage of the said *Henry*, as on his complaint we have understood: We willing that the error, if any hath been, should be duly corrected, and full and speedy justice done both to us and the said *John* and *Henry* in this behalf, command you, if judgment be therein given, that then you under your seal distinctly and openly send the record and proceedings aforesaid with all things concerning the same to us, together with this writ, so that we may have the same from the day of *St. Michael* in three weeks wheresoever we shall then be in *England*, that the record and proceedings aforesaid being inspected, we may cause farther to be done therein to correct that error what of right and according to the law and custom of *England* shall be to be done. Witness Ourselves at *Westminster* 4th day of *July* in the 3d year of our reign.

Layton.

Bradshawe and Gower.

Debt qui tam
on 10 A. c. 19.
against a par-
son for mar-
rying without
publishing the
banns.
7 & 8 W. 3.
c. 35.

London, to wit. HENRY Gower late of *London*, clerk, was summoned to answer as well to the now Lord the King as to *John Bradshawe*, who as well for the said Lord the King as for himself in this behalf prosecutes, in a plea that he render as well to the same now Lord the King as to the said *John*, who as well, &c. 400 l. of lawful money which he owes them and unjustly detains, &c. And whereon the same *John*, who as well, &c. by *Richard Darby* his attorney says, that within one year next before the day of the obtaining the original writ aforesaid, to wit, on the 3d day of *January* in the 3d year of the reign of the now Lord the King at *London* aforesaid, to wit, in the parish of *St. Bridget* in the ward of *Farringdon Without*, the said *Henry* being a person in holy orders did marry a certain man, by the name of *Robert Henley*, to a certain woman by the name of *E. Pickering*, without any publication of the banns of matrimony between the said *Robert* and *Elizabeth* according to law, and without any licence first

first had and obtained from the proper ordinary for the said marriage, against the form of the statute in such case thereof lately made and provided; whereby an action accrued to the said now Lord the King and the said *J. Bradshawe*, who as well, &c. to demand and have of the said *Henry* 100 *l.* parcel of the said 400 *l.* And the said *John*, who as well, &c. farther says, that within one year next before the day of the obtaining the original writ aforesaid, to wit, on the 12th day of *January* aforesaid in the third year abovesaid, at *London* aforesaid in the parish and ward aforesaid, the said *Henry* being a person in holy orders did marry a certain other man, by the name of *W. H.* to a certain other woman by the name of *M. S.* without any publication of the banns of matrimony between the said *W. H.* and *M. S.* according to law, and without any licence first had and obtained for the marriage aforesaid last mentioned from any proper ordinary whatsoever, against the form of the statute aforesaid in such case thereof lately made and provided; whereby an action accrued to the said now Lord the King and the said *J. Bradshawe*, who as well, &c. to demand and have of the said *Henry* other 100 *l.* other parcel of the said 400 *l.* And the said *J. Bradshawe*, who as well, &c. farther says, that within one year next before the day of obtaining the original writ aforesaid, to wit, on the 10th day of *February* in the third year abovesaid, at *London* aforesaid in the parish and ward aforesaid, the said *Henry* being a person in holy orders did marry a certain other man, by the name of *J. W.* to a certain other woman by the name of *K. F.* without any publication of the banns of matrimony between the said *J. W.* and *K. F.* according to law, and without any licence first had and obtained for the marriage aforesaid last mentioned from any proper ordinary whatever, against the form of the statute aforesaid in such case thereof lately made and provided; whereby an action accrued to the said now Lord the King and to the said *John*, who as well, &c. to demand and have of the said *Henry* other 100 *l.* other parcel of the said 400 *l.* And the said *J. Bradshawe*, who as well, &c. farther says, that within one year next before the day of obtaining the original writ aforesaid, to wit, on the 21st day of *February* in the third year abovesaid, at *London* aforesaid in the parish and ward aforesaid, the said *Henry* being a person in holy orders did marry a certain other man, by the name of *A. L.* to a certain other woman by the name of *E. S.* without any publication of the banns of matrimony between the said *A. L.* and *E. S.* according to law, and without any licence first had and obtained for the marriage aforesaid last mentioned from any proper ordinary whatever, against the form of the statute aforesaid in such case thereof lately made and provided; whereby an action accrued to the said now Lord the King and to the said *John*, who as well, &c. to demand and have of the said *Henry* 100 *l.* residue of the said 400 *l.* Nevertheless the said *Henry*, although often required, &c. the said 400 *l.* or any penny thereof, to the said now Lord the King and to the said *J. Bradshawe*, who as well, &c. or to either of them, hath not yet render'd, but the same to the said now Lord the King, or to the said *John*, who as well, &c. hitherto to render hath altogether denied, and yet doth deny, to the damage of the said *J. Bradshawe*, who as well, &c. 10 *l.* And therefore as well for the said now Lord the King as for himself he produces the suit, &c.

And the said *Henry* by *J. B.* his attorney comes and defends the force and injury when, Plea, Not in-
 &c. and says, that he the same *Henry* doth not owe to the said Lord the King and the said *J. Bradshawe*, who as well, &c. the said 400 *l.* or any penny thereof, in manner and form as the said *John*, who as well, &c. above thereof against him has declared: And of this he puts himself upon the country: And the said *John*, who as well, &c. likewise: Therefore *Venire* award-
 the sheriffs are commanded that they cause to come here in the morrow of the Ascension of ed.
 the Lord 12, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well,
 &c. At which day the jury between the parties aforesaid in the plea aforesaid was respited
 between them here until this day, to wit, in the morrow of the Holy Trinity then next
 following, unless *P. King*, Knt. chief justice of the court of the Lord the King of the Bench,
 here assigned by form of the statute, &c. on *Wednesday* the fifth day of *June* last past at 13 E. 1. c. 30.
Guildhall, London, should first come: And now here at this day comes the said *John*, who 12 E. 2. c. 4.
 as well, &c. by his attorney aforesaid: And the said chief justice before, &c. hath sent here his 14 E. 3. c. 16.
 record in these words: Afterwards at the day and place within mentioned before *P. King*, Kt. The *Posse*.
 the chief justice within written, *Joseph Houlston*, Gent. being associated to him by the form
 of the statute, &c. comes as well the said *J. Bradshawe*, who as well for the Lord the now
 King as for himself in this behalf prosecutes, as the within written *Henry Gower* by their at-
 torneys within contained; and the jurors of the jury, whereof mention is within made, be-
 ing called, some of them, to wit, *J. E. D. W.* and *S. S.* come, and on that jury are sworn:
 And because the rest of the jurors of the same jury do not appear, therefore others from the Tales.
 by-standers by the sheriffs of *London* hereto chosen at the request of the said *J. Bradshawe*,
 who as well, &c. and by the command of the chief justice aforesaid are added anew,
 whose names are filed in the panel within written, according to the form of the statute in 35 H. 8. c. 6.
 such case made and provided; which said jurors so added anew, to wit, *R. B. J. S.* &c.
 being likewise called come, who to say the truth of the within contained, together with
 the

Verdict for
the plaintiff
for 300 l.

For the defen-
dant for the
rest.

Judgment.

Moiety to the
King.
Moiety to the
informer.
Judgment for
the informer
for costs.

the other jurors aforesaid first impanelled, being elected, tried and sworn, say upon their oath, that the said *Henry Gower* owes to the said Lord the King and to the said *John*, who as well, &c. 300 l. parcel of the debt of 400 l. within written, in manner and form as the said *John*, who as well, &c. hath within declared against him; and they assess the damages of the said *John* by reason of the detention of the said debt of 300 l. parcel of the debt of 400 l. within written, beside his costs and charges by him about his suit in this behalf expended, to 2 d. and for those costs and charges to 53 s. 4 d. And the jurors aforesaid farther say on their oath, as to the third declaration with written, that the said *Henry Gower* doth not owe to the said Lord the King and the said *John Bradshawe*, who as well, &c. the within written 100 l. residue of the said 400 l. in manner and form as the said *John Bradshawe*, who as well, &c. hath within against him declared: Therefore it is considered, that the said now Lord the King and the said *John*, who as well, &c. recover against the said *Henry Gower* the said debt of 300 l. which by the jury aforesaid is found the said *Henry Gower* by force of the statute aforesaid hath forfeited and owes to the said now Lord the King and the said *John Bradshawe*, whereof the said now Lord the King may have 150 l. for his moiety, and the said *John Bradshawe*, who as well, &c. may have the other 150 l. for his moiety, according to the form of the statute aforesaid: It is also considered, that the said *John Bradshawe*, who as well, &c. recover against the said *Henry Gower* his damages aforesaid to 53 s. 6 d. by the jurors aforesaid in form aforesaid assessed, as also 17 l. 6 s. 6 d. to the same *John Bradshawe*, who as well, &c. at his request for his costs and charges aforesaid by the court here of increase adjudged, which said damages amount in the whole to 20 l. And the said *Henry Gower* in mercy, &c. And likewise the said *John Bradshawe*, who as well, &c. in mercy for his false suit against the said *Henry Gower* for the residue of the debt aforesaid, whereof the said *Henry Gower* by the jurors aforesaid is above acquitted: And the said *Henry Gower* may go thence without day, &c.

Orchard and Shepherd.

Nonpross for
not assigning
error.

Afterwards, to wit, on *Tuesday* next after three weeks of *Easter* in this same term, before the Lord the King at *Westminster* comes the said *G. Orchard* by *J. L.* his attorney, and prays that the said *Samuel Shepheard* may assign errors in the record and proceedings aforesaid on record; whereupon day is given by the court of the said Lord the King now here until next after to assign errors in the record and proceedings aforesaid: On which day before the Lord the King at *Westminster* comes the said *George* by his attorney aforesaid, and the said *Samuel* doth not come nor assign any error on record in the record and proceedings aforesaid, nor farther prosecute his writ of error aforesaid, but makes default: Therefore it is considered, that the said *Samuel* take nothing by his writ aforesaid, and that the said *George* may go thence without day: It is also considered, that the said *George* recover against the said *Samuel* 9 l. to the same *George* by the court of the said Lord the King now here against the said *Samuel* adjudged, according to the form of the statute in such case lately made and provided, because the said *Samuel* doth not prosecute his writ of error aforesaid: And the said *George* may have thereof execution, &c.

Ousnam and Mittell.

Writ of error
quashed be-
cause brought
as well on the
rendition of
the judgment
against the
principal as
on the award
of execution
against the
bail.

Afterwards, to wit, on *Monday* next after the Octave of the Purification of the Blessed Virgin *Mary* in this same term, before the Lady the Queen at *Westminster* comes the said *Samuel Mittell* in his proper person, and the said *John Ousnam* in his proper person likewise comes, and freely here in court thereupon the same *John Ousnam* says, that the said writ of error by the said *Samuel Mittell* in form aforesaid prosecuted did wrongfully and improvidently issue; because by the writ aforesaid it appears that the same writ of error was prosecuted by the same *Samuel* as bail for the said *George Gibson* in the plea aforesaid, as well on the rendition of the judgment on the plea aforesaid between the same *John* and the said *Richard*, as on the adjudication of execution on the writ of *Scire facias* issuing out of the King's court of the town and parish of *Maidstone* against the said *Samuel Mittell* as bail for the said *Richard* in the same plea, when by the law of the land of this kingdom of *England* no such writ of error in the name and at the suit of the said *Samuel* ought to have issued; and for that reason the same *John Ousnam* prays, that the writ of error by the said *Samuel* in form aforesaid prosecuted may be quashed, vacated and held for void: Whereupon all and singular the premisses being seen, and by the court of the said Lady the Queen now here more fully understood, and mature deliberation being thereon had, it is considered, that the said writ of error by the said *Samuel Mittell* in form aforesaid prosecuted be quashed, vacated and held intirely for void, &c.

Burr

Burr and Atwood.

AFTERWARDS, to wit, on *Tuesday* next after three weeks of *Easter* in that same term; before the Lord the King at *Westminster* comes the said *James Burr* by *J. L.* his attorney and says, that in the record and proceedings aforesaid, as also in the adjudication of execution aforesaid, there is manifest error, in this, to wit, that by the record aforesaid it appears that the judgment of adjudication of execution on the writ of *Scire facias* aforesaid given was given for the said *John Atwood* against the said *James Burr*, when by the law of the land of this kingdom of *England* that judgment ought to have been given for the said *James Burr* against the said *John Atwood*; and therefore in that it is manifestly erroneous: And he prays, that the said judgment, for that error and others in the record and proceedings aforesaid being, may be revoked, annulled and held intirely void; and that the said *James* may be restored to all things which he hath lost by reason of the judgment aforesaid; and that the said *John Atwood* to those errors may rejoin, &c.

General errors assigned on a judgment against the bail in a *Scire facias*.

Cooté and Lynch.

AFTERWARDS, to wit, on the 4th day of *March* in the 9th year of the reign of the Lord *William* the Third, now King of *England*, comes the said *Richard Cooté* by *J. B.* his attorney, and says, that in the record and proceedings aforesaid, as also in the rendition of the judgment and in the several affirmations of the judgment aforesaid in the record aforesaid mentioned, there is manifest error, in this, to wit, that by the record aforesaid it appears that the judgment aforesaid by the said court of the said Lord the King before the said Lord the King at the King's Court in the kingdom of *Ireland*, and also by the said court of the Lord the King before the King himself in *England*, is in all things affirmed, when no such affirmation of the judgment aforesaid ought thereon to have been given; and therefore in that there is manifest error: And he prays, that the judgment aforesaid, for the said error and others in the record and proceedings aforesaid being, may be revoked, annulled and held intirely void, and that he may be restored to all things which he hath lost by reason of the judgment aforesaid: And that the said *John Lynch* to the errors aforesaid may rejoin, &c.

Errors assigned on a judgment in debt affirmed in *Ireland* and in *K. B.* here.

Probert and Edmonds.

AND the said *John* by *J. M.* his attorney comes and says, that the declaration aforesaid, and the matter in the same contained, are not sufficient in law to maintain the action of the said *Henry* against the same *John* had; and therefore in that there is manifest error: There is error also in this, that by the record aforesaid it appears that the judgment aforesaid in form aforesaid given was given for the said *Henry* against the said *John*, when by the law of this kingdom of *England* that judgment ought to have been given for the said *John* against the said *Henry*; and therefore in that it is manifestly erroneous: It is erroneous also in this, to wit, that the said *Henry* before the verdict aforesaid given, to wit, on the 3d day of *August* in the year of the Lord 1693, at *Bergavenny* in the county of *Monmouth*, died, and so the judgment thereon is erroneous: And he prays, that the judgment aforesaid, for those errors and others in the record and proceedings aforesaid being, may be reversed, annulled and held intirely void, and that the same *John* may be restored to all things which he hath lost by reason of the judgment aforesaid.

Errors assigned, the declaration insufficient and death of the plaintiff before verdict. *Salk. 491.*

And the said *Henry* by *A. B.* his attorney comes and says, that there is no error either in the record and proceedings aforesaid, or in the rendition of the judgment aforesaid: And he prays, that the court of the said Lord the King now here may proceed to the examination as well of the record and proceedings aforesaid, as of the matter aforesaid above assigned for error, and that the judgment aforesaid may be in all things affirmed: But because the court of the said Lord the King here are not advised to give their judgment of and upon the premises, day therefore is given to the parties aforesaid before the Lord the King in the Octave of the Purification of the Blessed Virgin *Mary* wheresoever, &c. to hear their judgment of and upon the premises, because the court of the Lord the King here thereof not yet, &c.

No error.

Lewes and Jones

Diminution
alleged in a
record of a
judgment gi-
ven in the
Grand sessions
of Wales.

ON which day before the Lady the Queen at *Westminster* come the parties aforesaid by their attornies aforesaid: And because it is suggested to the court here, that the transcript of the record and proceedings aforesaid in form aforesaid sent to the said Lady the Queen, and now before the same Lady the Queen remaining, is falsly certified, to wit, in the last *placita* in the record and proceedings aforesaid certified, between the words [at the Grand sessions] and the words [county aforesaid] the words [of the Lord the King] are falsly certified; whereas in the record and proceedings before the said justices of the said Lady the Queen of her Grand sessions of her county of *Carmarthen* remaining, between the said words [at the Grand sessions] and the words [county aforesaid] are these words [of the Lady the Queen]: And also in the declaration in the record and proceedings aforesaid certified, between the word [unto] and the words [Queen's highway] this word [said] is wholly omitted, and not certified, but that word is in the declaration in the record of the judgment aforesaid before the said justices of the said Lady the Queen of her Grand sessions of her county of *Carmarthen* aforesaid remaining: And because it seems necessary and expedient to the court of the said Lady the Queen now here, before the court of the said Lady the Queen now here can proceed farther in this behalf, that the said Lady the Queen now here for her information in this behalf should be certified of and upon the premisses, the court here command the justices of the Grand sessions of the county of *Carmarthen*, that searching the rolls, entries, records and proceedings aforesaid, in the said plea which was before the said justices of the said Lord *William* the Third, the late King, between the said *Bridget Jones*, widow, and the said *George Lewes* of the borough of *Carmarthen* in the county of the same borough, Esq; in the said plea of trespass on the said *Bridget* by the said *George* committed, they forthwith certify what false certificates and omissions they shall find to the said Lady the Queen, together with the writ to them for that purpose directed: Whereupon *Philip Neve*, Serjeant at law, and *Thomas Webb*, Esq; justices of the said Lady the Queen of her Grand sessions of her county of *Carmarthen* aforesaid, have returned and certified to the said Lady the Queen, that by virtue of the writ to them directed they had inspected the record and proceedings between the parties aforesaid in the plea aforesaid in the Grand sessions of the said Lady the Queen, held at *Carmarthen* aforesaid in the county aforesaid, being there of record, and had found, that in the last *placita* in the said record and proceedings between the words [at the Grand sessions] and the words [county aforesaid] these words [of the Lord the King] were falsly certified; because by the record aforesaid it appears, that between the words at [the Grand sessions] and the words [county aforesaid] are these words [of the Lady the Queen]: And also in the declaration in the record and proceedings aforesaid, between the word [unto] and the words [the Queen's highway] this word [said] was omitted to be certified; because by the declaration aforesaid in the record and proceedings aforesaid it appears, that between the word [unto] and the words [the Queen's highway] this word [said] is inserted.

Almerick de Coursey, Earl of Kingale, against Compton, Knt.

Error assign-
ed, that the
declaration is
insufficient.

AFTERWARDS, to wit, on *Wednesday* next after a month of *Easter* in the fifth year of the reign of the said now Lady the Queen, before the same Lady the Queen at *Westminster* comes the said *Almerick de Coursey* by *James Close* his attorney and says, that in the record and proceedings aforesaid, as also in the rendition of the judgment aforesaid, there is manifest error, in this, to wit, that the declaration aforesaid, and the matter in the same contained, are not sufficient in law to maintain the action of the said *Francis Compton*, Knt. thereof against him, the said *Almerick* had; therefore in that there is manifest error: There is error also in this, to wit, that by the record aforesaid it appears, that the judgment in form aforesaid given was given for the said *Francis Compton*, Knt. against the said *Almerick*, when by the law of the land of this kingdom of *England* the said judgment ought to have been given for the said *Almerick* against him the said *Francis Compton*, Knt. therefore in that it is manifestly likewise erroneous: There is error also in this, to wit, that by the record aforesaid it appears, that the issue aforesaid between the parties aforesaid in the plea aforesaid joined was joined in *Trinity* term in the 4th year of the reign of the now Lady the Queen: Nevertheless the writ of *venire facias* between the parties aforesaid, in the plea aforesaid to try that issue, bore *teste* and issued long before the said issue was joined, to wit, on the 15th day of *May* in the 4th year of the reign of the now Lady the Queen, and also was returnable and returned before the issue aforesaid was joined, to wit, on the morrow of the Holy *Trinity* then next following, as by the writ of *venire facias* aforesaid in the custody of the *Custos Brevium* of the court aforesaid of record remaining filed more fully appears;

That the *teste*
of the *venire*
was before
issue joined.
Cro Car. 38,
90.
32 H. 8. c. 30.
2 Lev. 22.
1 Lev. 69.
Lutw. 1638.

appears; therefore in that it is likewise manifestly erroneous: And the said *Almerick* farther says, that the record aforesaid to the Lady the Queen transmitted is diminished in not certifying here the said writ of *Venire facias*; whereupon the same *Almerick* prays the writ of the Lady the Queen of *Certiorari* to be directed to the *Custos brevium* of the said Lady the Queen of the Bench, to certify here the writ aforesaid; and it is granted him, &c.

Ro. Raymond.

In this case an imparlance roll was entred and certified, whereupon judgment was affirmed in K. B.

Twitney and Houlder.

W Herefore *Thomas Trevor*, Knt. chief justice of the Common Bench is commanded, that searching the rolls and other memorandums of the warrants of attorney of the county of *Worcester* of *Easter* term in the 13th year of the reign of *William the Third*, late King of *England*, &c. being in his custody of record, he forthwith certifies to the said Lady the Queen wheresoever, &c. what he shall thereof find in the same, together with the writ of the said Lady the Queen to him for that purpose directed: Which said *Thomas Trevor*, Knt. chief justice aforesaid, by virtue of the writ aforesaid to him for that purpose directed, hath certified to the said Lady the Queen at *Westminster*, that having searched the rolls and other memorandums of the warrants of attorney of the county of *Worcester* of *Easter* term in the 13th year of the reign of *William the Third*, late King of *England*, &c. in his custody entred of record, there is no warrant of attorney between the parties aforesaid in the plea aforesaid; which said writ, together with the return thereof, is filed before the said Lady the Queen at *Westminster* among the records without day of this term: And he prays that the judgment aforesaid, for that error and others being in the record and proceedings aforesaid, may be revoked, annulled and held as void; and that the same *Thomas* may be restored to all things which he hath lost by reason of the judgment aforesaid; and that the said *Richard Houlder* to the errors aforesaid may rejoin, &c.

Certiorari to the chief justice, want of warrants of attorney being assigned for error, who return'd there were none.

Cutting and Williams.

O N which day before the Lady the Queen at *Westminster* come the parties aforesaid by their attorneys aforesaid; whereupon all and singular the premisses being seen, and by the court of the said Lady the Queen now here more fully understood, and mature deliberation being thereon had; because it seems to the court of the said Lady the Queen now here, that there is manifest error in the record and proceedings aforesaid, and also in the rendition of the judgment aforesaid, it is considered, that the judgment aforesaid, for those errors and others in the record and proceedings aforesaid, be revoked, annulled and held intirely as void: And that the said *John Williams* be restored to all things which he has lost by reason of the judgment aforesaid, &c.

The reversal of a judgment for error.

Alexander and Woods and others.

Pleas before the Lady the Queen at Westminster of Trinity term in the ninth year of the reign of the Lady Anne, now Queen of Great Britain, &c. Roll 54.

E ngland, to wit. **T** HE Lady the Queen sent to her trusty and well beloved *Thomas Trevor*, Knt. her chief justice of the Bench, her writ close in these words, to wit, *Anne* by the Grace of God of *Great Britain, France and Ireland* Queen, defender of the faith, &c. To her trusty and well beloved *Thomas Trevor*, Knt. her chief justice of the Bench, greeting: Because in the record and proceedings, as also in the rendition of the judgment of a plea which was in our court before you and your companions, our justices of the Bench, by our writ between *John Alexander* and *John Woods*, late of *London*, merchants, *John Osgood*, late of *London*, merchant, and *Nathaniel Rouse*, late of *London*, merchant, of a certain trespass on the case to the same *John Alexander*, &c. [to the end of the transcript] And the said *John Woods*, *John Osgood* and *Nathaniel* in mercy, &c.

The manner of making up a record of Nisi prius on issue joined in error.

Afterwards,

Death of one of the plaintiffs in error before trial assigned for error.

9 Rep. 30. b. Note; Trin. 7 Geo. these errors on affidavit the party was alive were set aside.

Scire facias prayed.

The defendant appears and pleads that *J. W.* is living, and traverses his death before the trial of the issue.

Repl. and issue on the traverse.

Venire awarded of the body of the county.

The *Distric* for the assizes.

13 E. 1. c. 30.

12 E. 2. c. 4.

14 E. 3. c. 16.

Afterwards, to wit, on *Wednesday* next after 15 days of *Easter* in that same term, before the Lady the Queen at *Westminster* come the said *John Osgood* and *N. Rouse* in their proper persons, and say, that in the record and proceedings aforesaid, as also in the rendition of the judgment aforesaid, there is manifest error, in this, to wit, that by the record aforesaid it appears that the judgment aforesaid is given as well against the said *John Woods* as the said *John Osgood* and *Nathaniel Rouse*, when in truth the said *John Woods* in the plea aforesaid mentioned, before the trial of the issue in the record aforesaid between the parties aforesaid joined, and before the rendition of the judgment aforesaid, to wit, on the 20th of *July* in the 8th year of the reign of the said now Lady the Queen at *Horsham* aforesaid in the county of *Sussex* aforesaid, died, and so the judgment aforesaid is erroneous and void in law: And the said *J. Osgood* and *Nathaniel* pray, that the judgment aforesaid, for the error aforesaid and others being in the record and proceedings aforesaid, may be revoked, annulled and held intirely as void; and that they the said *John Osgood* and *Nathaniel Rouse* may be restored to all things which they have lost by reason of the judgment aforesaid: And they pray a writ of the Lady the Queen to warn the said *John Alexander* to be before the Lady the Queen to hear the record and proceedings aforesaid; and it is granted them; whereby the sheriff of the county of *Sussex* is commanded that by good, &c. he cause the said *John Alexander* to know that he be before the Lady the Queen on the morrow of the Holy *Trinity* wheresoever, &c. to hear the record and proceedings aforesaid, if, &c. and farther, &c. The same day is given to the said *John Osgood* and *Nathaniel Rouse*, &c. On which day before the Lady the Queen at *Westminster* come the said *John Osgood* and *Nathaniel* in their proper persons, and the sheriff hath not returned thereof the writ: And the said *John Alexander*, on the fourth day of pleas being solemnly called by *John Allen* his attorney, likewise comes and says, that by any thing before alledged the judgment aforesaid ought not to be reversed, because he says, that the said *John Woods* in the plea aforesaid mentioned is yet surviving and living, without that, that the same *John Woods* died before the trial of the issue aforesaid in the record aforesaid between the parties aforesaid joined, in manner and form as the said *John Osgood* and *Nathaniel* above have alledged: And this he is ready to verify: Wherefore he prays that the judgment aforesaid may be in all things affirmed, &c.

And the said *John Osgood* and *Nathaniel Rouse* as before say, that the said *John Woods* died before the trial of the issue aforesaid in the record aforesaid between the parties aforesaid joined, in manner and form as the same *John Osgood* and *Nathaniel Rouse* have above alledged: And this they pray may be inquired of by the country: And the said *John Alexander* thereof likewise, &c. Therefore the sheriff of the said county of *Sussex* is commanded that he cause to come before the Lady the Queen from the day of the Holy *Trinity* in three weeks wheresoever, &c. twelve, &c. of the body of the county, &c. by whom, &c. and who neither, &c. to recognize on their oath, whether the said *John Woods* died before the trial of the issue aforesaid in the record aforesaid between the parties aforesaid joined, as the said *John Osgood* and *Nathaniel Rouse* have alledged, or not, because as well, &c. The same day is given to the parties aforesaid, &c. At which term before the Lady the Queen at *Westminster* come as well the said *John Osgood* and *Nathaniel Rouse* in their proper persons, as the said *John Alexander* by his attorney aforesaid; and the sheriff of the county of *Sussex*, to wit, *William Kent*, Esq; returns the said writ of *Venire facias* to him in form aforesaid directed in all things served and executed, together with a panel of the names of the jurors, of whom none, &c. Therefore the sheriff is commanded that he distrain the jurors aforesaid by all their lands, &c. so that he may have their bodies before the Lady the Queen from the day of *St. Michael* in three weeks wheresoever, &c. or before the justices of the said Lady the Queen, assigned to take assizes in the county aforesaid, if they shall before come on *Monday* 17th day of *July* at *Eastgrimstead* in the county aforesaid, by the form of the statute, &c. for want of jurors, &c. Therefore let the sheriff have the bodies, &c. The same day is given to the parties aforesaid, &c. And be it known that the writ of the said Lady the Queen thereof 28th day of *June* in this same terms was delivered of record to the under-sheriff of the county aforesaid, directed in form of law, to be executed at his peril, &c.

Jones against Stephens.

AFTERWARDS, to wit, on day next after in this same term; before the Lord the King at *Westminster* comes as well the said *R. Stephens* as the said *R. Jones* in their proper persons; whereupon as well the writ of error aforesaid, as the record and proceedings aforesaid, by pretence of the writ of error aforesaid transmitted and certified to the said court of the said Lord the King now here being seen, and by the court of the Lord the King here more fully understood and examined, because it seems to the court of the said Lord the King now here, that *Edward N. Knt.* one of the justices of the Bench, was by the writ aforesaid commanded that he should certify the record and proceedings of a plea which was before the said *E. N.* and his companions, justices of the Bench in the court aforesaid, between the parties aforesaid: Nevertheless the said *E. N.* hath transmitted to the court here the record and proceedings of a certain plea which was before *G. T. Knt.* and his companions, justices of the Lord the King of the Bench aforesaid, and so the writ aforesaid hath not warranted the sending the record and proceedings aforesaid to the said court of the said Lord the King now here sent and certified: Therefore it is considered that the writ of error aforesaid be quashed, &c.

The entry of the quashing a writ of error because the writ did not warrant the transcript of the record.

Mathews against Ludlowe.

AND the said *William Mathews* by *J. L.* his attorney comes and says, that the said *A release of errors pleaded.* *Henry Ludlowe* ought not farther to prosecute or maintain his writ of error aforesaid against him the said *William Mathews*; because he says, that after the judgment aforesaid in form aforesaid recovered, and before the day of the obtaining of the writ of error aforesaid, to wit, 17th day of *July* in the 31st year of the reign of the Lord *Charles the Second*, now King of *England*, &c. he the said *Henry Ludlowe*, by the name of *Henry Ludlowe of Bramley* in the county of *Surry*, Esq; at *Westminster* in the county of *Middlesex*; by his certain writing of release sealed with the seal of the said *Henry*, and to the court of the said Lord the King now here shewn, the date whereof is the same day and year, remised, released and for ever quitted claim to the said *William Mathews*, by the name of *William Mathews*, his executors and administrators, all and all manner of error and errors, writ and writs of error, and erroneous process whatsoever, and all benefits and advantages of the same, and all misprision of error and errors, defects and imperfections whatsoever had, made, committed, omitted, done or permitted, in, about, touching or concerning the said judgment in ejectment aforesaid, obtained against him the said *Henry* by the said *William* in the said *Trinity* term then last past, in the said court of the said Lord the King of Common Bench at *Westminster*, for the said one messuage, 30 acres of land, 10 acres of meadow, and 20 acres of pasture with the appurtenances in *Bramley* and *Sbalford* in the said county of *Surry*, demised to the said *William* by the said *M. Stynt*, widow, for 5 years from the first day of *March* then last past, or in, about, touching or concerning any warrant, process, original declaration, plea, entry or other proceedings whatsoever of or any way concerning the same judgment: And this the same *William* is ready to verify: Wherefore he prays judgment if the said *Henry* ought farther to prosecute or maintain his writ of error aforesaid against him the said *William*, &c.

Edm. Saunders.

Else and Cotton.

AND the said *Timothy* says, that he ought not to be precluded from his writ of error Repl. Not aforesaid against him the said *William Else* on the judgment aforesaid had, because his deed. he says, that the writing of release aforesaid, by him the said *William* in manner and form aforesaid above pleaded in bar of the errors aforesaid by the said *Timothy Cotton* assigned, is not the deed of him the said *Timothy*: And this he prays may be inquired of by the country: And the said *William* likewise, &c. Therefore the sheriff is commanded *Præsum award.* that he cause to come before the Lord and Lady the King and Queen from the day of *Easter* in one month wheresoever, &c. twelve free and lawful men of the neighbourhood of *Westminster* aforesaid in the county aforesaid, each of whom hath 20 l. of land, tenements or rent yearly at the least, by whom the truth of the fact may be better known, and who are no way related either to the said *William* or the said *Timothy*, to recognize on their oath, whether the writing of release aforesaid be the deed of the said *Timothy* or not: The same day is given to the parties aforesaid, &c. On which day before the said Lord and Lady the King and Queen at *Westminster* come

N n n

Distringas.

Nisi prius at
Westminster.

13 E. 1. c. 30.

12 E. 2. c. 4.

14 E. 3. c. 16.

come the parties aforesaid by their attornies aforesaid, and the sheriff returns the writ aforesaid in all things served and executed, together with a panel of the names of the jurors to the same writ annexed, of whom none, &c. Therefore the sheriff is commanded that he distrain them by all their lands, &c. and that of the issues, &c. so that he may have their bodies before the Lord and Lady the King and Queen on the morrow of the Ascension of the Lord wheresoever, &c. to recognize in form aforesaid, unless the trusty and well beloved of the Lord and Lady the King and Queen *John Holt*, Knt. chief justice of the same Lord and Lady the King and Queen, assigned to hold pleas in the court of the same Lord and Lady the King and Queen before the Lord and Lady the King and Queen themselves, shall first come on *Thursday* 20th day of *July* at *Westminster* in the great hall of pleas there, by the form of the statute, &c. for want of jurors, &c. Therefore let the sheriff have the bodies, &c. The same day is given to the parties aforesaid, &c.

Gawler and Elliott.

Plea. Release
of errors.

AND the said *John Gawler* by *J. A.* his attorney comes and says, that the said *William* ought not farther to prosecute or maintain his writ of error aforesaid against him the said *John*, because he says, that after the judgment in form aforesaid recover'd, to wit, 17th day of *May* in the year of the Lord 1716, he the said *William*, by the name of *William Elliott* of the parish of *St. Paul Covent Garden* in *Middlesex*, woollen draper, at the parish of *St. Clement Danes* in the county of *Middlesex* aforesaid, by his certain writing of release sealed with the seal of him the said *William*, and to the court of the Lord the King now here shewn, the date whereof is the same day and year, did remise, release, and for ever quit claim to the said *John*, by the name of *John Gawler*, Gent. his heirs, executors and administrators, all and all manner of error and errors, writ and writs of error, and all benefits and advantages of the same, and all misprisions of error and errors, defects and imperfections whatsoever had, made, committed, done or suffered in, about, touching or concerning the said judgment obtained against him the said *William* by the said *John* in the said *Easter* term in the said court of the said Lord the King of Common Bench at *Westminster*, for 355 l. debt, beside costs of suit, or in, about, touching or concerning any warrant, process, declaration, plea, entry or other proceeding whatsoever, of or in any manner concerning the same judgment: And this the same *John* is ready to verify: Wherefore he prays judgment if the said *William* ought farther to prosecute his writ of error aforesaid against him the said *John*, &c.

C. Wearg.

Sheeres against Pomeroy.

Declaration
insufficient.Death of one
of the plain-
tiffs before the
return of the
writ of in-
quiry.Scire facias
prayed.

AFTERWARDS, to wit, on *Thursday* next after 15 days of *Easter* in this same term before the Lady the Queen at *Westminster* comes the said *J. Sheeres* by *J. A.* his attorney and says, that in the record and proceedings aforesaid, and also in the rendition of the judgment aforesaid, there is manifest error, in this, to wit, that the declaration aforesaid in the record aforesaid mentioned, and upon which the judgment aforesaid in form aforesaid is given, and the matter in the same contained, are not sufficient in law to have or maintain that judgment in form aforesaid thereon given, and so the judgment aforesaid in form aforesaid given is erroneous and void in law; therefore in that there is manifest error: There is error also in this, to wit, that by the record aforesaid it appears that the judgment aforesaid in the plea aforesaid given is given as well for the said *William Pomeroy* as for the said *William Plomer*, when in truth the said *William Plomer* in the declaration aforesaid mentioned, before the return of the writ of inquiry of damages aforesaid, and before the rendition of the judgment aforesaid, to wit, 18th day of *November* in the 8th year of the reign of the Lady *Anne*, now Queen, &c. at *London* aforesaid in the parish and ward aforesaid died, and so the judgment aforesaid is erroneous and void in law: And the said *Jonathan* prays that the judgment aforesaid, for the errors aforesaid and others being in the record and proceedings aforesaid, may be reversed, annulled and intirely held as void; and that he the said *Jonathan* may be restored to all things which he hath lost by reason of the judgment aforesaid: And he prays a writ of the Lady the Queen, to warn the said *William Pomeroy* to be before the Lady the Queen to hear the record and proceedings aforesaid, if, &c. and it is granted him, &c. Whereby the sheriffs of *London* are commanded that by good, &c. they give notice to the said *William Pomeroy* to be before the Lady the Queen on the morrow of the Holy *Trinity* wheresoever, &c. to hear the record and proceedings aforesaid, if, &c. and farther, &c. The same day is given to the said *Jonathan*, &c. On which day before the Lady the Queen at *Westminster* comes the said *Jonathan* by his attorney aforesaid; and the said *William Pomeroy* being solemnly called, by

Edward

Edward Halstead his attorney likewise comes: Whereupon the said *Jonathan* as before says, that in the record and proceedings aforesaid, as also in the rendition of the judgment aforesaid, there is manifest error, alledging the errors aforesaid by him in form aforesaid alledged: And prays, that the judgment aforesaid, for those errors and others being in the record and proceedings aforesaid, may be reversed, annulled and intirely held as void, and that he may be restored to all things which he hath lost by reason of the judgment aforesaid: Defendant appears and (protesting there is no error) demurs. And that the said *William Pomeroy* to those errors may rejoin, &c. Whereupon the said *William Pomeroy* says, that by any thing by the said *Jonathan* above for error assigned the judgment aforesaid ought not to be reversed or annulled; because by protesting there is no error either in the record and proceedings aforesaid, or in the rendition of the judgment aforesaid, nevertheless for plea the same *William* says, that the matters aforesaid above by the said *Jonathan* in manner and form aforesaid for error assigned are not sufficient in law to reverse or annul the said judgment, or to compel him the said *William Pomeroy* to rejoin to those errors, and that he the said *William Pomeroy* hath no necessity, nor is obliged by the law of the land, in any manner to answer to those errors in manner and form aforesaid assigned: And this he is ready to verify: Wherefore he prays judgment, and that the judgment aforesaid may be in all things affirmed and stand and remain in its full strength, force and effect; and he also prays his damages, costs and charges, by reason of the delay of execution of the judgment aforesaid, according to the form of the statute in such case lately made and provided, to be adjudged to him, &c. And for causes of demurrer in law in this behalf, according to the form of the statute in such case lately made and provided, the same *William Pomeroy* doth set down and to the court here expresses these causes following, to wit, Because the errors above assigned are various and of different sorts, and contain several and double matters, and include matter of law and in fact together, and also because there is no averment of those errors.

Tbo. Pengelly.

And the said *Jonathan* says, that the errors aforesaid by him the said *Jonathan* in manner Joinder and form aforesaid above assigned, and the matter in the same contained, are good and sufficient in law to reverse and annul the said judgment, and to compel the said *William Pomeroy* to rejoin to those errors; which said matter the same *Jonathan* is ready to aver and prove, as the court, &c. And because the said *William* doth not rejoin to those errors, nor hitherto any way deny them, the same *Jonathan* as before prays that the judgment aforesaid may be reversed, annulled and held as intirely void, and that he may be restored to all things which he hath lost by reason of the judgment aforesaid: But because the court of the Lady the Queen now here are not yet advised to give their judgment of and upon the premisses, day therefore is given to the parties aforesaid before the Lady the Queen until wheresoever, &c. to hear their judgment of and upon those premisses, because the court of the said Lady the now Queen thereof not yet, &c.

Reynolds against Seymour.

Afterwards, to wit, on *Tuesday* next after the morrow of *St. Martin*, before the Lord A writ of the King at *Westminster* came the said *Elizabeth Reynolds* by *W. B.* her guardian, by error coram nobis resident. the court of the said Lord the King hereto specially admitted, and produced here into the court of the said Lord the King then there a certain writ of the said Lord the King of error prosecuted of and upon the premisses, and prayed that the writ aforesaid might be allowed; and it is allowed, &c. Which said writ follows in these words, to wit, *William* the Third, &c. To our justices assigned to hold pleas before us, greeting: Because in the record and proceedings of a certain plea which was in our court and of the Lady *Mary* late Queen of *England* before us and the said late Queen, by bill between *William Seymour* and *Elizabeth Reynolds*, of a certain trespass on the case to the same *William* by the said *Elizabeth* committed, and in the rendition of the judgment of the same plea in our court before us, as it is said, (which said record and proceedings before us now remain, as it is said,) a manifest error has happened, to the great damage of the said *Elizabeth*, as by her complaint we have understood: We willing the error (if any hath been) should be duly corrected, and full and speedy justice done to the parties in this behalf, command you, that inspecting the record and proceedings aforesaid you farther cause to be done therein to correct that error what of right and according to the law and custom of our kingdom of *England* shall be to be done. *Witness* Ourself at *Westminster* 9th day of *November* in the 7th year of our reign.

And

Infancy assigned in the defendant in the action.
9 Rep. 30. b.
Bull. 130.

And upon this the same *Elizabeth* says, that in the record and proceedings aforesaid, and also in the rendition of the judgment aforesaid, there is manifest error, in this, to wit, that she the said *Elizabeth* appeared in the suit aforesaid by her attorney; nevertheless the said *Elizabeth* at the time of the appearance, and of the rendition of the judgment aforesaid, was under the age of 21 years, to wit, of the age of 17 years and no more, to wit, at the parish of *St. Mary le Bow* in the ward of *Cheape, London*, aforesaid, in which case the same *Elizabeth* ought to be admitted to appear in the court aforesaid, to defend the suit aforesaid, by her guardian and not by her attorney; therefore in that there is manifest error: And this she is ready to verify: Wherefore the same *Elizabeth* prays, that the judgment aforesaid for the error aforesaid may be reversed, annulled and held as intirely void, and that she may be restored to all things which she has lost by reason of the judgment aforesaid, &c.

Beauchamp and Durdant.

Repl. Of full age.

AND the said *Philip Beauchamp* by *J. L.* his attorney comes and says, that the said *William Durdant* ought not to have or maintain his writ of error aforesaid against him the said *Philip*, because he says, that he the said *William* in the said *Michaelmas* term in the 8th year aforesaid, and at the time of the rendition of the judgment aforesaid, was of the full age of 21 years and more, to wit, at *C.* aforesaid in the county aforesaid: And of this he puts himself on the country: And the said *William* thereof likewise, &c. Therefore, &c.

Fox against King and another.

The entry of a second writ of error coram nobis, the former being abated by the death of the plaintiff.

BUT because the court of the said Lady the Queen now here are not yet advised to give their judgment of and upon the premises, day therefore is given to the parties aforesaid before the Lady the Queen until from the day of *Easter* in 15 days wheresoever, &c. to hear their judgment thereon, because the court of the said Lady the Queen here thereof not yet, &c. On which day before the Lady the Queen at *Westminster* come the said *Thomas* and *William* in their proper persons and say, that after the last continuance of the said writ of error, to wit, after the said *Octave* of *St. Hillary* and before this day, to wit, the said 15th day from *Easter*, to wit, the 1st day of *April* last past, the said *Henry Fox* at *Woolley* aforesaid in the county of *Huntingdon* aforesaid died intestate, after whole death administration of all and singular the goods and chattels, rights and credits, which belonged to the said *Henry Fox* the elder at the time of his death, to one *Henry Fox* the younger in due form of law was committed: And this they are ready to verify: Wherefore they pray judgment of the writ of error aforesaid, and that the said writ may be quashed, vacated and held as void, &c. Wherefore it is considered by the court of the Lady the Queen here, that the said writ of error be quashed, vacated and held as void:

A new writ of error prayed.

And hereupon afterwards, to wit, on *Wednesday* next after one month of *Easter*, comes here into court the said *Henry Fox* the younger in his proper person, and prays leave to purchase another writ of the said Lady the Queen of error upon the record and proceedings aforesaid in the court of the said Lady the Queen before the Queen herself remaining; and it is granted him, &c. Whereupon the said *Henry Fox* the administrator afterwards, to wit, on the 30th day of *April* in the 5th year of the reign of the said now Lady the Queen at *Westminster*, comes into the same court of the said Lady the Queen in his proper person, and produces here in the court of the said Lady the Queen a certain other writ of the said Lady the Queen, directed to the justices of the same Lady the Queen assigned to hold pleas before the said Lady the Queen; which said writ follows in these words, to wit, *Anne*, &c. To our justices assigned to hold pleas before us: Because in the record and proceedings, as also in the rendition of the judgment of a plea which was in our court before *Thomas Trevor*, Knt. and his companions, our justices of the Bench, by our writ between *Henry Fox* the elder and *Thomas King* late of, &c. *William Bluntsham* late of, &c. of a certain trespass on the same *Henry Fox* by the said *Thomas* and *William* committed, as it is said, which said record and proceedings by reason of error happening we have caused to be brought before us, and they now before us remain, and the said *Henry Fox* is dead, as it is said,) a manifest error hath happened, to the great damage of *Henry Fox* the administrator of the goods and chattels which belonged to the said *Henry Fox* the elder, who died intestate, as it is said, as by his complaint we have understood: We willing the error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, command you, that inspecting the record and proceedings aforesaid you farther cause to be done therein to correct that error what of right and according to the law and custom of our kingdom of *England* shall be to be done. Witness Ourselves at *Westminster* 30th day of *April* in the 5th year of our reign. And the said *Henry Fox* prays, that the judgment aforesaid for the errors above assigned may be reversed, annulled and intirely held

The writ set forth in hac verba.

Prays the judgment to be reversed.

held as void; and that the court of the said Lady the Queen now here may proceed to the examination as well of the record and proceedings aforesaid, as of the matters aforesaid above as aforesaid assigned for error; but because the court of the said Lady the Queen now here are not yet advised to give their judgment of and upon the premisses, day is given to the parties aforesaid in the said writ of error last mentioned before the Lady the Queen until on the morrow of the Holy Trinity wheresoever, &c. to hear their judgment thereof, because the court of the said Lady the Queen here thereof not yet, &c.

Lloyd against Badger.

Afterwards, to wit, on the 26th day of *March* in the 13th year of the reign of the Lord William the Third, before the said Lord the King and the Peers and Nobles assembled in this present Parliament of *England* at *Westminster* in the county of *Middlesex* comes the said *T. Lloyd* by *J. L.* his attorney, and says, that in the record and proceedings aforesaid, as also in the rendition and affirmance of the judgment aforesaid in the record aforesaid mentioned, there is manifest error, in this, to wit, that by the record aforesaid it appears that the judgment aforesaid in the court of the said Lord the King before the King himself at *Westminster* given, was given for the said *John Badger* against the said *Thomas Lloyd*, when by the law of the land of this kingdom of *England* that judgment ought to have been given for the said *Thomas Lloyd* against the said *John Badger*; and therefore in that there is manifest error: There is error also in the affirmance of the judgment aforesaid, because he says, that the judgment aforesaid was affirmed in the court of the Lord the King of the Exchequer chamber at *Westminster* before the justices of the Common Bench and the barons of the Exchequer aforesaid, when no such affirmance of the judgment aforesaid ought to have been given thereon, but that judgment by the law of the land of this kingdom of *England* ought to have been reversed; and therefore in that there is manifest error: And he prays that the judgment aforesaid, for those errors and others being in the record and proceedings aforesaid, may be reversed, annulled and held as intirely void; and that he may be restored to all things which he hath lost by reason of the judgment and affirmance aforesaid; and that the said *J. B.* to the errors aforesaid may rejoin, &c.

B. Shower.

Earl of Kildare against Sbaen, Knt.

Afterwards, to wit, on *Thursday* next after a month of *St. Michael* in this same term before the Lord the King at *Westminster* comes the said *Wentworth Fitz-gerald*, Earl of *Kildare*, by *J. L.* his attorney, and says, that in the record and proceedings, as also in the adjudication of the execution aforesaid in the said court of the said now Lord the King, called the King's court in his kingdom of *Ireland*, there is manifest error, in this, to wit, that by the record aforesaid it appears that the judgment of adjudication of execution on the writ of *Scire facias* aforesaid given, was given for the said *Arthur Sbaen* against the said *Wentworth Fitz-gerald*, Earl of *Kildare*, when by the law of the land of the said kingdom of *Ireland* that judgment ought to have been given for the said *Wentworth Fitz-gerald*, Earl of *Kildare*, against the said *Arthur Sbaen*; and therefore in that it is manifestly erroneous: And he prays that the said judgment, for that error and others being in the record and proceedings aforesaid, may be reversed, annulled and held as intirely void; and that the said *Arthur Sbaen* may rejoin to the error aforesaid, &c.

St. John Brodrick.

Green and another against Waller.

Afterwards, to wit, day next after in this same term, before the Lord the King at *Westminster* comes the said *N. Green* and *W. C.* by *L. H.* their attorney, and say, that in the record and proceedings aforesaid, and in the rendition of the judgment aforesaid, as also in the affirmance of the same, there is manifest error, in this, to wit, that by the record of the judgment aforesaid, and of the affirmance of the same, it appears that the judgment aforesaid in form aforesaid given and affirmed was given and affirmed for the said *James Waller* against the said *Nicholas* and *William*, when by the law of the land of the said kingdom of *Ireland* that judgment ought to have been given for the said *Nicholas* and *William* against the said *James*; therefore in that it is manifestly erroneous: And this the

the same *Nicholas* and *William* are ready to verify: Wherefore they pray that the judgment aforesaid, and the affirmance of the same, for that error and others being in the record and proceedings aforesaid, may be reversed, annulled and held as intirely void; and that the same *Nicholas* and *William* may be restored to all things which they have lost by reason of the judgment and affirmance aforesaid, &c. and that the said *James* to those errors may rejoin, &c.

Day given to
join in error.

Demise of the
King.
Adjournment
of the term.

The plaintiff
in error died,
and his exe-
cutrix appear-
ed and joined
in error.

Whereupon day is given by the court of the said Lord the King now here to the said *James* until from the day of *Easter* in 15 days then next following to rejoin to the said errors: The same day is given to the said *Nicholas* and *William* there, &c. And because before the said 15 days from *Easter* the said Lord the late King *William* the Third departed this life, and before the same day the plea aforesaid was adjourned by writ of the Lady *Anne*, now Queen of *England*, &c. of common adjournment before the same Lady the Queen at *Westminster* until to and upon this day, to wit, from the day of *Easter* in three weeks, and also before the said three weeks from the day of *Easter*, unto which day the plea aforesaid was adjourned, to wit, on the 9th day of *August* 1700, the said *James Waller* at *Westminster* aforesaid made his last will and testament in writing, and by the same constituted *Dorothy* his wife his sole executrix thereof; and afterwards, to wit, on the 13th day of *April* 1702, he the said *James Waller* at *Westminster* in the county of *Middlesex* aforesaid died, and the said *Dorothy* his executrix took upon herself the burden of the execution of the will aforesaid, and that will in due form of law proved, to wit, at *Westminster* aforesaid in the county aforesaid: And this the said *Nicholas* and *William* do not deny: Whereupon at the said 15 days from *Easter* before the said Lady the Queen at *Westminster* come as well the said *Nicholas* and *William* by their attorney aforesaid, as the said *Dorothy* by *F. B.* her attorney, and says, that there is no error either in the record and proceedings aforesaid, or in the rendition of the judgment aforesaid; and prays that the court of the said Lady the Queen now here may proceed to the examination as well of the record and proceedings aforesaid, as of the matter aforesaid above assigned for error; but because the court of the said Lady the Queen now here are not yet advised to give their judgment of and upon the premisses, day therefore is given to the parties aforesaid by the court of the said Lady the Queen here until wheresoever, &c. to hear their judgment thereon, because the court of the Lady the now Queen thereof not yet, &c.

Howell against Harry and his wife.

Error assigned
on a judgment
in assault.
That the ori-
ginal and ca-
pias issued be-
fore the cause
of action ac-
crued.

Certiorari to
the custos bre-
vium.

Afterwards, to wit, on *Saturday* next after 15 days of *St. Hillary* in that same term, before the Lord the King at *Westminster* comes the said *Howell John Howell* by *C. C.* his attorney, and says, that in the record and proceedings aforesaid, as also in the rendition of the judgment aforesaid, there is manifest error, because the said *Kinrynn* and *Elizabeth* his wife on the 4th day of *October* in the 9th year of the reign of the said Lord the now King sued out their original writ out of the court of Chancery of the said Lord the King in the plea aforesaid against the said *Howell*, directed to the then sheriff of *Monmouth*, which said writ was returnable before the justices of the said Lord the King of the Bench at *Westminster* from the day of *St. Michael* in three weeks then next following; and that the said *Kinrynn* and *Elizabeth* afterwards, to wit, on the 23d day of *October* in the 9th year of the reign of the said Lord the now King, prosecuted out of the court of the said Lord the King of the Bench a certain writ of the said Lord the King of *capias ad respondendum* on the original writ aforesaid against the said *Howell*, to the sheriff of the county of *Monmouth* aforesaid directed, which said writ was returnable before the justices of the said Lord the King of the Bench at *Westminster* from the day of *St. Martin* in 15 days; upon which said writ of *capias ad respondendum* the said *Howell John Howell* was taken and appeared in the plea aforesaid; and because it appears by the record aforesaid, that the assault, battery, and all the trespass aforesaid was committed by the said *Howell* on the first day of *December* in the 9th year of the reign of the said Lord the now King after the issuing of the original writ aforesaid, and of the said writ of *capias ad respondendum*; therefore the judgment aforesaid is erroneous and void in law; which said writs remain filed in the custody of the *custos brevium* of the said Lord the King of the Bench of *Michaelmas* term in the 9th year above said; and the said *Howell* prays a writ of the said Lord the King of *certiorari* to be directed to the said *custos brevium*, to certify as well the said original writ as the said writ of *capias ad respondendum*, and the several returns of the same writs; and it is granted him, &c. Wherefore by writ of the said Lord the King now here, *W. Thursty*, Esq; *custos brevium* of the said Lord the King of the Bench is commanded, that searching the original writs, and the writs of *capias ad respondendum* of the county of *Monmouth* of *Michaelmas* term in the 9th year of the reign of the said Lord the King, being in his custody of record, and what of the same writs he shall find, together with the returns of the same, as fully and intirely as they remain before him, to the said Lord the

the King without delay, wheresoever he shall then be in *England*, he certify, together with the writ to him therefore directed; which said *William Thursby* the *custos brevium* afore-
 said hath thereon returned and certified to the said Lord the King, that the writs original The return of
 and writs of *capias ad respondendum* of the said Lord the King of his county of *Monmouth* the *custos bre-*
 of *Michaelmas* term in the 9th year of his reign afore said, being in his custody of record, vium.
 being searched, there is a certain writ original and a writ of *capias ad respondendum* in
 the plea afore said between the parties afore said in his custody filed of the same term, the
 tenor of which said writs together with the returns of the same, as fully and intirely as
 they remain in his custody filed of record, he hath certified to the said Lord the King,
 as appears in a certain schedule to the same writ annexed, as by the writ afore said he was
 commanded; which said writ follows in these words, to wit, *William, &c.* (so recite the The tenor of
 original to) And have there the names of the pledges, and this writ. Witness *Thomas Arch-* the original.
 bishop of *Canterbury* and the rest of the justices and keepers of the kingdom at *Westminster*
 4th day of *October* in the 9th year of our reign.

Killingham.

Pledges to prosecute, *John Doe* and *Richard Roe*; the within named *Howell John* hath The sheriff's
 nothing in my bailiwick whereby he can be attached. return.

Theophilus Reynolds, Esq; sheriff.

William, &c. (reciting the *capias* to) Witness *G. Treby* at *Westminster* 24th day of *October* The *capias*.
 in the 9th year of our reign.

By virtue of this writ to me directed I have taken the body of the within named *Howell* The sheriff's
John Howell, whose said body I have ready at the day and place within contained. return.

Theophilus Reynolds, Esq; sheriff.

And the said *Howell* prays, that the judgment afore said, for the error afore said and others
 being in the record and proceedings afore said, may be reversed, annulled and held as intirely
 void, and that he may be restored to all things which he hath lost by reason of the judg-
 ment afore said: And he likewise prays, that the court of the said Lord the King here may
 proceed to the examination as well of the record and proceedings afore said, as of the matters
 afore said above for error assigned; and that the said *Kinvyu Harry* and *Elizabeth* to the
 error afore said may rejoin, &c.

Whereupon the said *Kinvyu Harry* and *Elizabeth* his wife freely here in court by *J. L.* The defen-
 their attorney come, and having heard the error afore said immediately say, that there is no dant appears
 error either in the record and proceedings afore said, or in the rendition of the judgment error.
 afore said, and pray likewise, that the court of the said Lord the King now here may proceed
 to the examination as well of the record and proceedings afore said, as of the matters afore-
 said above for error assigned, and that the judgment afore said may be in all things affirmed:
 But because the court of the said Lord the King now here are not yet advised to give their
 judgment of and upon the premises, day therefore is given to the parties afore said before
 the Lord the King until wheresoever, &c. to hear their judgment of and upon those
 premises, because the court of the said Lord the King now here thereof not yet, &c.
 On which day before the said Lord the King at *Westminster* come the parties afore said by
 their attorneys afore said: And because it seems necessary and expedient to the court of the
 said Lord the King now here, before they proceed farther in this behalf, that the said
 Lord the King should be certified, whether there is any writ original against the said
Howell, at the suit of the said *Kinvyu Harry* and *Elizabeth* his wife in the plea afore said,
 in the said court of the said Lord the King of the Bench at *Westminster* filed of record
 of *Hillary* term in the 9th year of the reign of the said Lord the now King, or not; *Certiorari* to
William Thursby, Esq; the *custos brevium* of the said Lord the King of the Bench is com- the *custos bre-*
 manded, that searching the original writs of the county of *Monmouth* afore said of the said vium to in-
Hillary term in the 9th year above said, being in his custody filed of record, he certify what form the
 he shall find of that writ together with the return thereof, as fully and intirely as it remains court;
 with him, without delay to the said Lord the King, wheresoever he shall then be in *England*,
 together with the writ of the said Lord the King to him therefore directed: Which said who certifies
W. T. Esq; the *custos brevium* hath thereon returned and certified to the said Lord the King, an original of
 that having searched the original writs of the said Lord the King of his county of *Monmouth* *Hillary* term.
 of *Hillary* term in the 9th year of the reign of the said Lord the now King, being in his cu-
 stody of record, there is a certain writ original between the parties afore said in the plea afore-
 said in his custody filed of record; the tenor of which said writ, together with the return of
 the same, as fully and intirely as it remains in his custody filed of record, he hath certified to
 the said Lord the King, as appears in a certain schedule to the same writ annexed, as by the
 writ afore said he was commanded; which said writ follows in these words, to wit, *William,*
 &c.

Ec. [reciting the writ to] And have there the names of the pledges, and this writ. Witness Ourselves at *Westminster* the 3d day of *January* in the 9th year of our reign.

* *Killingham.*

The sheriff's return. Pledges to prosecute, *John Doe* and *Richard Roe*; the within named *Howell* hath nothing in my bailiwick whereby he may be attached.

Geo. Lewis, Esq; sheriff.

And upon this the same *Howell John Howell* prays, that the judgment aforesaid, for the error aforesaid and others being in the record and proceedings aforesaid, may be reversed, annulled and held as intirely void, and that he may be restored to all things which he hath lost by reason of the judgment aforesaid: And the said *Kirvyn* and *Elizabeth* farther pray, that the judgment aforesaid may be in all things affirmed: But because the court, *Ec.*

Renault and Graham.

No original, nor writ of inquiry, as signed for error of a wrong term.

No original certified. Salk. 781.

As to the writ of inquiry non misit breve.

Scire facias awarded.

Defendant appears and alleges an original.

Certiorari to the *custos brevium*;

who certifies an original of the right term.

AND it is granted him, *Ec.* whereby *Henry St. John*, Bart. *custos brevium* of the court of the said Lady the Queen of the Bench aforesaid is commanded, that searching the writs original of the county of *Middlesex* aforesaid of the Octave of the Purification of the Blessed *Mary* of *Hillary* term in the 9th year of the reign of the said Lady the Queen, being in his custody of record, and what of the said writ between the parties aforesaid he shall find, he without delay certify to the said Lady the Queen wheresoever, *Ec.* together with the writ of the said Lady the Queen to him therefore directed: Which said *custos brevium* hath thereupon returned and certified to the said Lady the Queen, that by virtue of the writ aforesaid to him directed, having searched the writs original of the said Lady the Queen of the county of *Middlesex* of *Hillary* term in the 9th year of her reign abovesaid, in his custody filed of record, there is no original writ between the parties aforesaid in the plea aforesaid in his custody filed of the said term which he can certify to the said Lady the Queen, which said writ of *certiorari*, together with the return of the same, is filed among the records without day of this term: And as to the return of the said writ of *certiorari* above prayed, to certify whether a writ of inquiry of damages or any such inquisition of the said Octave of the Purification of the Blessed *Mary* between the parties aforesaid is filed of record or not, the same *custos brevium* of the said Lady the Queen hath not returned the said writ, nor done any thing therein: And thereupon the said *John Graham* prays a writ of the said Lady the Queen, to warn the said *John Renault* to be before the Lady the Queen to hear the record and proceedings aforesaid, *Ec.* and it is granted him, *Ec.* whereby the sheriff of *Middlesex* is commanded that by good, *Ec.* he give notice to the said *John Renault*, that he be before the said Lady the Queen from the day of the Holy *Trinity* in 15 days wheresoever, *Ec.* to hear the record and proceedings aforesaid, if, *Ec.* The same day is given to the said *John Graham*, *Ec.* On which day before the Lady the Queen at *Westminster* comes the said *John Graham* by his attorney last above named; and the sheriff hath not returned the writ: And the said *John Renault* freely comes here in court by *John Allen* his attorney, *Ec.* And thereupon the said *John Graham* as before says, that in the record and proceedings aforesaid, as also in the rendition of the judgment aforesaid, there is manifest error, alledging the errors aforesaid by him in form aforesaid alledged: And he prays, that the judgment aforesaid, for the errors aforesaid and others being in the record and proceedings aforesaid, may be reversed, annulled, and held as intirely void; and that the said *John Renault* to those errors may rejoin: Whereupon the said *John Renault* says, that there is a certain writ original between the parties aforesaid in the plea aforesaid of *Hillary* term in the 9th year of the reign of the said Lady the now Queen, in the said court of the said Lady the Queen of the Bench filed of record: And he prays a writ of the said Lady the Queen to the said *custos brevium* of the said Lady the now Queen of the Bench aforesaid to be directed, to certify the said Lady the now Queen more fully of the truth thereof, and it is granted him, *Ec.* Whereby the said *custos brevium* of the said Lady the Queen of the Bench aforesaid is commanded, that searching the files of the writs original of the county of *Middlesex* aforesaid of *Hillary* term in the 9th year of the reign of the said Lady the now Queen abovesaid, being in his custody of record, and what of the original writ aforesaid between the parties aforesaid he shall thereon find, together with the return of the same, as fully and intirely as it remains with him, he without delay certify to the said Lady the Queen wheresoever, *Ec.* together with the writ of the said Lady the Queen to him therefore directed: The same day is given to the parties aforesaid, *Ec.* And the said *custos brevium* of the said Lady the Queen hath thereon returned and certified, that having searched the files of original writs of the said Lady the Queen of the county of *Middlesex* of the said *Hillary* term in the 9th year of the reign of the said Lady the Queen, in his custody filed of record, there is a certain writ original between the parties aforesaid in the plea aforesaid in his custody filed

filed of the said *Hillary* term, the tenor of which said writ, together with the return of the same, as fully and intirely as it remains in his custody filed of record, he hath certified to the said Lady the Queen, as it appears in a certain schedule to this writ annexed, as by the writ aforesaid he was commanded; which said writ follows in these words, to wit, *Anne* by the grace of God, &c. (*so recite the writ to*) to the damage of the said *John Renault* 130 l. as he says; and have there the names of the pledges and this writ. Witness Ourself at *Westminster* the second day of *January* in the ninth year of our reign. *Barnes.*

By the Lord keeper of the great seal of *Great Britain*, at the petition of the plaintiff. Pledges to prosecute *John Doe* and *Richard Roe*; the within named *John Grabam* hath nothing in my bailiwick whereby he can be attached.

The answer of { *G. F. Knt.*
and
F. E. Knt. } sheriff.

And upon this the said *J. Reynault* by his attorney aforesaid comes and immediately says, *in nullo est* that there is no error either in the record and proceedings aforesaid, or in the rendition of the judgment aforesaid; and prays likewise that the court of the said Lady the Queen now here may proceed to the examination as well of the record and proceedings aforesaid, as of the matters aforesaid above for error assigned; but because the court of the said Lady the Queen now here are not yet advised to give their judgment of and upon the premisses, day therefore is given to the parties aforesaid by the court of the said Lady the Queen here until wheresoever, &c. to hear their judgment thereon, because the court of the said Lady the now Queen thereof not yet, &c.

Davey against Arnold.

Afterwards, to wit, on *Wednesday* next after three weeks of the Holy *Trinity* in that same term, before the Lady the Queen at *Westminster* comes the said *George Davey* in his proper person, and says, that the execution of the judgment aforesaid remains to be made to him; therefore he prays a writ of the Lady the Queen to be directed to the sheriff of *Surry* aforesaid, to warn the said *Elizabeth* to be before the said Lady the Queen wheresoever, &c. to shew if she hath or can say any thing for herself why the said *George* should not have his execution thereof against her, as well of the possession of his term aforesaid yet to come of and in the tenements aforesaid with the appurtenances, as of his damages, costs and charges, according to the force, form and effect of the recovery aforesaid; and it is granted him, &c. whereby the sheriff of *Surry* is commanded that by good and lawful men of his bailiwick he give notice to the said *Elizabeth* that she be before the Lady the Queen from the day of *St. Michael* in three weeks wheresoever, &c. to shew in form aforesaid, if, &c. and farther, &c. The same day is given to the said *George*, &c. On which day before the Lady the Queen at *Westminster* comes the said *G.* in his proper person, and the sheriff of *Surry* aforesaid, to wit, *W. B. Esq;* returns that the said *E. Arnold* hath nothing in his bailiwick whereby he can give notice to her, neither is she found in the same, and the said *E.* doth not come: Therefore the sheriff of *Surry* is as before commanded, that by good, &c. he give notice to the said *E.* that she be before the Lady the Queen on the *Octave* of *St. Martin* wheresoever, &c. to shew in form aforesaid, if, &c. and farther, &c. The same day is given to the said *G.* &c. On which day before the Lady the Queen at *Westminster* comes the said *G.* in his proper person, and the sheriff of *Surry* aforesaid, to wit, the said *W. B. Esq;* likewise returns that the said *E.* hath nothing in his bailiwick whereby he can give her notice, neither is she found in the same; and the said *E.* altho' the 4th day of plea solemnly called, doth not come, but hath made default: And upon this the said *G.* says, that the said *E.* hath not yet assigned error or errors in the record and proceedings aforesaid: Therefore day is given to the parties aforesaid before the Lady the Queen at *Westminster* until *Wednesday* next after 15 days of *St. Martin* wheresoever, &c. to wit, to the said *E.* to assign error or errors in the record and proceedings aforesaid, &c. On which day before the Lady the Queen at *Westminster* comes the said *G.* in his proper person, and the said *E.* on the same day solemnly called comes not, but hath likewise made default, nor doth farther prosecute the writ of error aforesaid against the said *G.* Therefore it is considered, that the said *E.* be in mercy, and that the said *G.* have thereof execution against the said *E.* as well of the possession of his term aforesaid yet to come of and in the tenements aforesaid with the appurtenances, as of his damages, costs and charges aforesaid, according to the force, form and effect of the recovery aforesaid, &c. And farther it is considered, that the said *G.* recover against the said *E.* 5 l. 10 s. to the same *G.* by the court of the said Lady the Queen now here, according to the form of the statute thereof made and provided, for his damages, costs, and

and charges which he hath sustained by reason of the delay of the execution of the judgment aforesaid on pretence of prosecuting the said writ of error; and that the said *George* have thereof likewise execution, &c.

Wallcot and Dillon.

Error in the King's Bench in Ireland.

Error by the heir to reverse a judgment of reversal in the King's Bench given on an indictment of high treason at the Old Bailey, whereon the ancestor was found guilty and executed.

Parl. Rep. 127 to 137. 186 to 191. Salk. 632. 4 Mod. 395. 402.

Ireland, to wit. **T**HE Lord the King sent to his trusty and well beloved counsellor *Richard Pyne*, Knt. his chief justice, assigned to hold pleas in his court before the King himself in his kingdom of *Ireland*, his writ close in these words, to wit, *William the Third*, by the grace of God of *England, Scotland, France and Ireland* King, defender of the faith, &c. To our trusty and well beloved counsellor *R. Pyne*, Knt. our chief justice, assigned to hold pleas in our court before us in our kingdom of *Ireland*, greeting: Because in the record and proceedings, as also in the rendition of the judgment in our court before us in the kingdom of *Ireland*, on the tenor of the record and proceedings of a certain judgment on a certain indictment against *T. W.* late of *L. Gent.* deceased, for certain high treasons touching the person of the Lord *Charles the Second*, late King of *England*, and the record and proceedings of reversal of that judgment by reason of error happening, and also of the record and proceedings of affirmance of the same judgment of reversal by us in our writ close to you lately sent, a manifest error has happened, to the great damage of *J. D.* widow, Countess of *R.* in our kingdom of *Ireland*, assignee of *W. D.* Esq; late Earl of *R.* aforesaid; to which said *William the said Lord Charles the Second*, late King of *England*, by his letters patent under his great seal of *England* gave and granted all the lands and tenements which belonged to the said *T. W.* in our kingdom of *Ireland*, which were forfeited to the same late King by the said attainder of him the said *Thomas*, to hold to the same *William*, his heirs and assigns for ever, as we by the complaint of the said *Isabel* have understood: We willing the error, if any hath been, should be duly corrected, and full and speedy justice done to the same *J.* in this behalf, command you, that if judgment be given on the tenor of the record and proceedings aforesaid, so as aforesaid transmitted, then the record and proceedings of that judgment, with all things touching the same, you distinctly and openly transmit to us under your seal, and this writ, so that we may have them from the day of the Holy Trinity in three weeks, wheresoever we shall then be in *England*, that the record and proceedings being inspected, we may farther cause to be done therein what of right shall be to be done, and cause notice to be given to one *J. W.* son and heir of the said *T. W.* deceased, that he be then there to hear the record and proceedings aforesaid, and farther to do and receive what our court before us in *England* shall consider in the premisses. Witness Ourself at *Westminster* 13th day of *May* in the 11th year of our reign.

The record and proceedings whereof mention is within made, with all things touching them, I transmit before the Lord the King wheresoever, &c. at the day and place within contained, in a certain record to this writ annexed; and I have caused notice to be given to the within named *John W.* that he be then there to proceed in the motion aforesaid, as I am within commanded.

The answer of *R. Pyne*.

Pleas of the crown before the Lord the King at the King's court of *Michaelmas* term in the 9th year of the reign of our Lord *William the Third*, by the grace of God of *England, Scotland, France and Ireland* King, defender of the faith, &c. Witness *Richard Pyne*, Knt.

Savage.

The Lord the King sent to his trusty and well beloved counsellor *R. P.* Knt. his chief justice, assigned to hold pleas in his court before the King himself in his kingdom of *Ireland*, his writ close in these words, to wit, *William the Third*, by the grace of God of *England, Scotland, France and Ireland* King, defender of the faith, &c. To our trusty and well beloved counsellor *R. Pyne*, Knt. our chief justice, assigned to hold pleas in our court before Ourself in our kingdom of *Ireland*: The tenor of the record and proceedings, as well of the rendition of the judgment on a certain indictment against *T. W.* late of *L. Gent.* deceased, for certain high treasons touching the person of the Lord *Charles the Second*, late King of *England*, whereof he was indicted, and thereon convicted by a certain jury of the country thereon between the said Lord the late King and the said *Thomas*, taken before the justices of the Lord the King, assigned to deliver the gaol of *Newgate* for the city of *L.* of the prisoners being in the same, and judgment was thereon given for the said late King against the said *Thomas W.* which said record and proceedings thereof, by reason of error happening

pening we have caused to be brought into our court before us in *England*, to the great damage of him the said *J. W.* son and heir of the said *T. W.* and we in our same court before us, for divers errors in the record and proceedings aforesaid found, the judgment aforesaid have reversed; which said record and proceedings afterwards we have caused to be brought before us in our parliament in *England*, by reason of error happening, as he hath alledged; and afterwards in the same court of parliament it was considered, that the judgment of reversal of the judgment aforesaid should be in all things affirmed; and which said record and proceedings before us in our same court before us in *England* now remaining, as it is said, by *John Holt*, Knt. our chief justice assigned to hold pleas before us in *England*, by virtue of our writ of *certiorari* to us in our Chancery in *England* certified, and on the files of our same Chancery of record remaining, together with the tenor and return of the same, we have sent to you inclosed in these presents, commanding you, that inspecting the tenors aforesaid you farther cause to be done therein what of right shall be to be done. Witness *Thomas* Archbishop of *Canterbury* and the other keepers and justices of the kingdom at *Westminster* 5th day of *July* in the 9th year of our reign.

Layton.

Allowed *R. Pynt.*

William the Third, &c. To our trusty and well beloved *J. Holt*, our chief justice assigned to hold pleas before us, greeting: Being willing for certain reasons to be certified on the tenor of the record and proceedings as well of the rendition of the judgment on a certain indictment against *T. W.* late of *L. Gent.* deceased, for certain high treasons touching the person of the Lord *Charles* the Second, late King of *England*, whereof he was indicted, and thereupon by a certain jury of the country thereon between the said late Lord the King and the said *Thomas*, taken before the justices of the said late Lord the King assigned to deliver the gaol of *Newgate* for the city of *London* of the prisoners being in the same, was convicted, and judgment was thereupon given for the said late King against the said *T. W.* which said record and proceedings thereof by reason of error happening we have caused to be brought into our court before us; and we in our said court before us have reversed the judgment aforesaid for divers errors in the judgment and proceedings aforesaid found; which said record and proceedings afterwards we have caused to be brought before us in our Parliament by reason of error happening, as it is alledged; and afterwards in the same court of Parliament it was considered, that the judgment of reversal of the judgment aforesaid should be in all things affirmed; and which said record and proceedings before us in our same court before us now remaining, as it is said, We command you, that the tenor of the record and proceedings aforesaid with all things touching the same, you distinctly and openly send to us in our Chancery without delay, wheresoever we shall then be in *England*, under your seal, and this writ. Witness *Thomas* Archbishop of *Canterbury* and the other keepers and justices of the kingdom at *Westminster* 21st day of *July* in the 9th year of our reign.

Certiorari on the indictment.

The answer of J. Holt, Knt. the chief justice within written:

The tenor of the record and proceedings within written, with all things touching the same, I certify to the Lord the King in his Chancery in a certain schedule to this writ annexed, as I am within commanded.

J. Holt.

Pleas before the Lord the King at *Westminster* of *Easter* term in the 7th year of the reign of the Lord *William* the Third, now King of *England*, &c. among the pleas of the crown, Roll 3. *London*, to wit, The Lord the King sent to his justices by his letters patent made under the great seal of *England*, to inquire by the oath of good and lawful men of the city of *London*, and other ways, methods and means, whereby they could or might better know of all treasons, misprisions of treason, insurrections, rebellions and other misdemeanors, offences and injuries whatever, and also to his justices assigned to deliver his gaol of *N.* for the city of *London* of the prisoners being in the same, and to every of them, his writ close in these words, to wit, *William*, &c. To our justices by our letters patent made under the great seal of *England*, to inquire by the oath of good and lawful men of the city of *L.* and other ways, methods and means, whereby they could or might better know of all treasons, misprisions of treason, insurrections, rebellions and other misdemeanors, offences and injuries whatever, and also to our justices assigned to deliver our gaol of *Newgate* for the city of *L.* of the prisoners being in the same, and to every of them, greeting: Because in the

Writ of error
to remove the
indictment
into Chan-
cery.

The commis-
sion of oyer
and terminer.

the record and proceedings, and also in the rendition of the judgment of a certain indictment against *T. W.* late of *L.* Gent. deceased, for certain high treasons touching the person of the Lord *Charles* the Second, late King of *England*, whereof he is indicted, and thereupon by a certain jury of the county thereon between the said Lord the late King and the said *T.* taken before the justices of the said Lord *Charles* the Second, late King of *England*, &c. assigned to deliver the gaol aforesaid, is convicted, and judgment is thereon given, as it is said, manifest error hath happened, to the great damage of *J. W.* son and heir of the said *T.* as by his complaint we have understood; We being willing the error, if any hath been, should be duly corrected, and full and speedy justice done to the said *John* in this behalf, command you, if judgment be given, then the record and proceedings aforesaid, with all things touching the same, to us under your or one of your seals you distinctly and openly send, and this writ, so that we may have them from the day of *Easter* in three weeks, wherefoever we shall then be in *England*, that the record and proceedings aforesaid being inspected, we may farther cause to be done therein to correct that error what of right and according to the law and custom of our kingdom of *England* shall be to be done. Witness Ourselves at *Westminster* 16th day of *March* in the 7th year of our reign. The execution of this writ appears in a schedule and record to this writ annexed. The answer of *Thomas Lane*, Knt. mayor of the city of *London* and one of the justices within written. The record and proceedings, whereof in the writ aforesaid mention is made, follows in these words, to wit, Be it remembered, that by a certain inquisition taken for the most Serene Lord the King at *Justice-Hall* in the *Old Baily*, *London*, in the parish of *St. Sepulchre* in the ward of *F. Without*, *London*, aforesaid, on *Thursday*, to wit, the 12th day of *July* in the 35th year of the reign of our Lord *Charles* the Second, by the grace of God of *England*, &c. before *W. P.* Knt. mayor of the city of *London*, *F. P.* Knt. chief justice of the said Lord the King of the Bench, &c. justices of the said Lord the King assigned to hold pleas before the King himself, &c. *Henry Tulse*, Knt. *James Smith*, Knt. &c. Aldermen of the said city, and their companions, justices of the said Lord the King, by the letters patent of the said Lord the King to the same justices before named and any four or more of them under the great seal of the said Lord the King of *England* made, to inquire by the oath of good and lawful men of the city of *London*, and other ways, methods and means, whereby they could or might better know as well within liberties as without, by whom the truth of the fact they might the better know, and inquire of all treasons, misprisions of treason, insurrections, rebellions, counterfeittings, clippings, washings, false coinings, and other falsities of the monies of this kingdom of *England* or other kingdoms or dominions whatever, and of all murders, felonies, homicides, killings, burglaries, rapes, unlawful congregations and conventicles, speaking of words, combinations, misprisions, confederacies, false allegiances, trespasses, riots, routs, retentions, escapes, contempts, falsities, negligencies, concealments, maintenances, oppressions, champarties, deceptions and other misdemeanors, offences and injuries whatever, and also the accessaries of the same, within the city aforesaid, as well within liberties as without, by whomsoever and howsoever had, done, perpetrated or committed, by whom, or to whom, when, how and in what manner, and of other articles and circumstances the premisses and every of them howsoever concerning, more fully the truth and the same treasons and other the premisses to hear and determine according to the law and custom of the kingdom of the said king of *England* assigned, by the oath of *R. A.* Esq; *R. P.* &c. good and lawful men of the city of *L.* aforesaid, it is presented, That *T. W.* late of *L.* as a false traitor against the most Illustrious and most Excellent Prince our Lord *Charles* the Second, &c. his King and natural Lord, not having the fear of God in his heart, nor considering the duty of his allegiance, but being moved and seduced by the instigation of the devil, the love and true, due and natural obedience, which a true and faithful subject of the said Lord the King towards the said Lord the King should bear and of right is bound to bear, wholly with-drawing, and with all his might intending the peace and common tranquillity of this kingdom of *England* to disturb, and war and rebellion against the Lord the King to raise and move, and the government of the said Lord the King in this kingdom of *England* to subvert, and the said Lord the King from the title, honour and royal name of the Imperial crown of his kingdom of *England* to depose and deprive, and the said Lord the King to death and final destruction to bring and put, on the second day of *March* in the thirty-fifth year of the reign of the Lord *Charles* the Second, now King of *England*, &c. and at divers days and times as well before as after, at the parish of *St. Michael B.* in the ward of *B. London*, maliciously and traiterously, with divers other traitors to the jurors aforesaid unknown, did conspire, compass, imagine and intend the said Lord the King his supreme Lord, not only of the Regal state, title, power and government of his kingdom of *England* to deprive and put out, but also the same Lord the King to kill and to death bring and put, and the ancient government of his kingdom of *England* to change, alter and intirely subvert, and miserable slaughter among

among the subjects of the said Lord the King throughout his whole kingdom of *England* to cause and procure, and insurrection and rebellion against the said Lord the King to move and excite within this kingdom of *England*; and to perfect and accomplish the same his most wicked treasons and traitorous compassings, imaginations and intentions, the same *Tho. Walcott* as a false traitor then and there and at divers other days and times, as well before as after, maliciously, traiterously and advisedly assembled himself, met and consulted with the said other traitors to the jurors aforesaid unknown, and with the same treated of and for the executing and accomplishing the same his treasons and traitorous compassings, imaginations and intentions, and that the said *Tho. Walcott* as a false traitor maliciously, traiterously and advisedly then and there and at divers other days and times, as well before as after, assumed upon himself and to the said other traitors promised he would be aiding and assisting in the execution of his treasons and traitorous compassings, imaginations and intentions aforesaid, and in the provision of arms and armed men to perfect and accomplish the same his treasons and traitorous compassings, imaginations and intentions aforesaid; and to perfect and accomplish the same his most wicked treasons and traitorous compassings, imaginations and intentions aforesaid, the same *T. W.* as a false traitor maliciously, traiterously and advisedly then and there arms, to wit, blunderbuffes, &c. procured and prepared, against the duty of his allegiance, against the peace of the said Lord the now King, his crown and dignity, &c. and also against the form of the statute in such case made and provided, &c. Wherefore the sheriffs of the city aforesaid were commanded, that they should not omit, &c. but should take the said *T. W.* if &c. to answer, &c. And now, to wit, at the gaol-delivery of the said Lord the King of *N.* held for the city of *L.* at *Justice-Hall* aforesaid in the said parish of *St. S.* in the ward of *F. Without, London*, aforesaid, the said *Thursday* the 12th day of *J.* in the 35th year aboveaid, before the said *W. P. Knt.* mayor of the city of *L.* *T. P. Knt.* chief justice, &c. another justice of the said Lord the King assigned to hold pleas before the King himself, *W. T. Knt.* *J. E. Knt.* &c. aldermen of the said city, and others their companions and justices of the said Lord the King assigned to deliver his gaol of *N.* of the prisoners being in the same, to the said justices of the said Lord the King before named by their own proper hands delivered the indictment aforesaid here in court of record in form of law to be determined, &c. Whereupon at this said same gaol-delivery of the said Lord the King of *N.* held for the city aforesaid at *Justice-Hall* aforesaid, the said *Thursday* 12th day of *July* in the 35th year aboveaid, before the said justices last mentioned comes the said *T. W.* under the custody of *N. D. Knt.* and *P. R. Knt.* sheriffs of the city aforesaid, into whose custody for the cause aforesaid he was before committed, to the bar here brought in his proper person, who is committed to the said sheriffs of *L.* &c. and immediately of the premisses aforesaid in the indictment aforesaid specified on him above charged is asked how he would thereof acquit himself; the same *T. W.* says that he is not thereof guilty, and thereof of good and ill he puts himself on the country: Therefore immediately let a jury thereon come, &c. before the said justices last named here, &c. And the jurors of that jury by the said sheriffs hereto impanelled, to wit, *N. C. &c.* being called come, who to say the truth of the premisses being elected, tried and sworn, say on their oath, that the said *T. W.* is guilty of the high treason aforesaid and is found in the indictment aforesaid specified upon him above charged, in manner and form as by the indictment aforesaid above against him is supposed, and that the same *T. W.* had no goods or chattels or tenements to their knowledge; and hereupon the said *T. W.* is immediately asked if he has or knows any thing to say for himself why the court of the said Lord the King here should not proceed to judgment and execution thereof upon the verdict aforesaid; who nothing farther says than as before he had said: Whereupon all and singular the premisses being seen, and by the court here fully understood, it is considered by the court here, that the said *T. W.* be carried to the gaol of the said Lord the King of *N.* from whence he came, and be there put on a hurdle, and from thence to the gallows of *Tyburn* drawn, and there by the neck be hung and cut down alive to the ground, and that is privy members be cut off, and his intrails be taken out of his belly and put into the fire and be there burnt, and that his head be cut off, and that is body be divided into four parts, and that the head and those quarters be put where the Lord the King will appoint them, &c. Wherefore the sheriffs are commanded that they take him if, &c. to satisfy, &c. And now, to wit, *Thursday* next after a month of *Easter* in this same term, before the Lord the now King at *Westm.* comes one *J. W.* the son and heir of the said *T. W.* deceased, of the high treason aforesaid convicted and attainted, by *A. B.* his attorney, and having the record aforesaid on which the said *T.* in form aforesaid is convicted and attainted says, that in the record and proceedings aforesaid, and also in the rendition of the judgment aforesaid, there is manifest error, in this, to wit, that it appears by the record aforesaid, that the judgment aforesaid is given for the said Lord the late King, when by the laws of this kingdom of *England* the judgment aforesaid ought to have been given for the said *T. W.* and in that it is manifestly erroneous: There is error also in this, to wit, that the crimes in and by the indictment aforesaid against the said *T. W.* charged, are by the laws of this kingdom of *England* uncertainly, doubtfully and too generally alleged,

The sentence
not pursuant
to the laws of
the land.

Continuance.

Judgment
reversed.

Writ of Error
in parliament.

Return of the
C. J. of the
record with
his own hands
into parlia-
ment.

ledged, and that the said indictment supposes and on the same *T.* charges and imposes crimes in a different manner and intirely in themselves disagreeing, and that the judgment thereon given is contrary to the laws of *England*, and not to be pronounced or set for or upon such crimes as in the indictment aforesaid are supposed; and in that it is manifestly erroneous; wherefore he prays the judgment of the court here in the premisses, and that the judgment and attainder aforesaid, for the errors aforesaid and others in the record and proceedings aforesaid found and being, may be reversed, annulled and held as intirely void; and that he the said *J. W.* the son and heir of the said *T.* may be restored to all things which he the same *J.* by reason of the judgment and attainder aforesaid hath lost, and that the court here may proceed to the examination as well of the record and proceedings aforesaid, as of the matters above for errors assigned, &c. And because the court of the Lord the King here are not yet advised to give their judgment of and upon the premisses, day therefore is given to the said *J. W.* in the state as now, &c. until on the morrow of the Holy *Trinity* before the Lord the King wheresoever, &c. to hear their judgment thereon, &c. On which said morrow of the Holy *Trinity* before the Lord the King at *Westminster* comes the said *J. W.* by his attorney aforesaid, and as before prays judgment, and that the judgment and attainder aforesaid against the said *T. W.* given, for the errors aforesaid and others in the record and proceedings aforesaid found and being, may be reversed, annulled and held as intirely void; and that he the said *J. W.* the son and heir of the said *T.* may be restored to all things which he the said *J.* by reason of the judgment and attainder aforesaid hath lost, and that the court here may proceed to the examination as well of the record and proceedings aforesaid, as of the matters aforesaid above for errors assigned, &c. And because the court of the Lord the King here are not yet advised to give their judgment of and upon the premisses, farther day therefore is given to the said *J. W.* until before the said Lord the King wheresoever, &c. to hear their judgment thereon, &c. On which day before the Lord the King at *Westminster* comes the said *J. W.* by his attorney aforesaid, and as before prays judgment, and that the judgment and attainder aforesaid, for the errors aforesaid and others in the record and proceedings aforesaid found and being, may be reversed, annulled, and held as intirely void; and that he the said *J. W.* the son and heir of the said *T. W.* may be restored to all things which he the said *J. W.* by reason of the judgment and attainder aforesaid hath lost; and that the court of the Lord the King here may proceed to the examination as well of the record and proceedings aforesaid, as of the matters above for errors assigned, &c. Whereupon all and singular the premisses being seen, and by the court here understood, and the record and proceedings aforesaid, and the errors aforesaid by the said *J. W.* above assigned, and others in the record and proceedings aforesaid found and being, being diligently examined, and mature deliberation being thereon first had, it is considered, that the judgment aforesaid, for the errors aforesaid and others in the record and proceedings aforesaid found and being, be reversed, annulled and held as intirely void; and that the said *J. W.* the son and heir of the said *T. W.* be restored to all things which he the said *J. W.* by reason of the judgment and attainder aforesaid hath lost; and that the said *J. W.* may go thereof without day, &c. Afterwards, to wit, the 6th day of *July* in the 8th year of the reign of the Lord *William* the Third, King of *England*, &c. the Lord the King sent to *J. Holt*, Knt. chief justice of the said Lord the King assigned to hold pleas before the King himself, his writ close in these words, to wit, *William* the Third, &c. To our trusty and well beloved *J. Holt*, Knt. our chief justice assigned to hold pleas before us: Because in the record and proceedings, as also in the rendition of the judgment of a certain indictment against *T. W.* late of *London*, Gent. now deceased, for certain high treasons touching the person of the Lord *Charles* the Second, late King of *England*, whereof he was indicted, and thereupon by a certain jury of the country thereon between the said late King and the said *T. W.* taken before the justices of the said late King assigned to deliver the gaol, being convicted, and judgment thereupon was given for the said late King against the said *T. W.* as it is said, which said record and proceedings aforesaid, by reason of error happening, we have caused to be brought into court before us, and the judgment thereof in our same court before us is reversed: And because in the reversal of the judgment aforesaid before us on the writ of error aforesaid a manifest error hath happened, to the great damage of one *Isabel Dillon*, widow, Countess of *R.* in our kingdom of *Ireland*, as by her complaint we have understood; We willing the error, if any hath been, should be duly corrected, and full and speedy justice done to the same *Isabel* in this behalf, command you, that if the judgment on the writ of error aforesaid be reversed, then you send the record and proceedings aforesaid, with all things touching them, to us in our Parliament at the next session, 28th day of this instant month of *July* to be held, and this writ, that the record and proceedings aforesaid being inspected, we may farther cause to be done therein, with the assent of the Lords Spiritual and Temporal being in the same Parliament, what of right and according to the law and custom of our kingdom of *England* shall be to be done. Witness *Thomas* Archbishop of *Canterbury* and the rest of the keepers and justices of the kingdom at *Westm.* 6th day of *July* in the 8th year of our reign. By virtue of which said writ the said chief justice the record and proceedings aforesaid, with all things touching them, to the said Lord the King in the present parliament with his own proper hands produced, according to the command of the said writ: And hereupon *T. Trevor*, Knt. the attorney general of the Lord the now King, who for the same Lord the King in this behalf prosecutes, before the Lord the King and the peers of this kingdom

kingdom of *England* in this present Parliament at *Westminster* in the county of *Middlesex* The attorney assembled in his proper person comes and says, that in the record and proceedings, and also general assigns errors. in the rendition of the judgment upon the said former writ of the said Lord the King to correct error, by the said *J. W.* prosecuted for reversing and annulling of the judgment aforesaid against the said *T. W.* on the indictment aforesaid, for the high treason aforesaid given, there is manifest error, in this, to wit, that where by the record aforesaid it is supposed that the said *J. W.* did put in his place one *A. B.* his attorney to prosecute the said former writ of error in and upon the indictment for the high treason aforesaid, nevertheless the said *A. B.* had no warrant of attorney for the same *J. W.* filed of record; therefore in that there is manifest error: There is error also in this, to wit, that by the record aforesaid it appears that the judgment aforesaid for the reversing and annulling of the judgment aforesaid against the said *T. W.* in form aforesaid given, was given for the said *J. W.* against the said Lord the King, when by the law of the land of this kingdom of *England* that judgment ought to have been given for the said Lord the King against the same *J. W.* therefore in that there is likewise manifest error: And this he is ready to verify: Wherefore he prays judgment, and that that judgment, for the errors aforesaid and others being in the record and proceedings aforesaid, may be reversed, annulled and held as intirely void; and that the said Lord the King to all things, which he by reason of the reversing and annulling of the judgment aforesaid hath lost, may be restored, &c. And the said *T. Trevor*, Knt. the attorney general of the Lord the now King, who for the same Lord the King in this behalf prosecutes, prays a writ of the said Lord the King to the said *J. Holt*, Knt. to certify the same Lord the King here in the same court of Parliament in the premisses more fully the truth thereof; and it is granted him; whereby the said *J. Holt*, Knt. the chief justice a- Certiorari to the C. J. of the King's Bench. fore said, is commanded, that searching the files of the same court of the Lord the King before the King himself, whether any warrant of attorney be filed of record in the court of the Lord the King before the King himself for one *A. B.* to prosecute a writ of error for the reversal of the judgment of a certain indictment against *T. W.* now deceased, for certain high treasons whereof he is indicted, and thereupon is convicted, to the said Lord the King here in the present Parliament of this kingdom, he without delay certify; which said *J. Holt*, Knt. the chief justice aforesaid, to the said Lord the King here in the present Parliament hath returned and certified, that searching the files of the court of the said Lord the King before the King himself of record there, no warrant of attorney for the said *A. B.* to prosecute the writ of error aforesaid for the reversal of the judgment aforesaid is filed, as by the writ aforesaid he is commanded: Whereupon the said *J. W.* afterwards, to wit, 26th day of *November* in the 8th year of the reign of the said Lord the now King aforesaid, in his proper person before the said Lord the King and the Peers here in the present Parliament assembled freely comes, and *oyer* being had of the errors aforesaid, immediately says, that In nullo est errorum. neither in the record and proceedings aforesaid upon the said former writ of error, nor in the rendition of the judgment aforesaid for the reversal of the said judgment against the said *T. W.* for the high treasons aforesaid, there is any error: Wherefore he prays that the judgment of reversal of the judgment against the said *T. W.* may be in all things affirmed: But Continuanee. because the court of Parliament now here are not yet advised to give their judgment of and upon the premisses, day therefore is given as well to the said *T. Trevor*, Knt. who prosecutes, &c. as to the said *J. W.* before the said Lord the King and the Peers in the same court of Parliament now here until *Friday*, to wit, 29th day of *January* next ensuing, at *Westminster* in the county of *Middlesex* aforesaid, to hear their judgment thereof, because the court of Parliament aforesaid thereof not yet, &c. On which day, before the said Lord the King and the Peers of this kingdom of *England* in the same court of Parliament now here at *Westminster* in the county of *Middlesex* aforesaid assembled, comes as well the said *T. Trevor*, Knt. attorney general of the Lord the now King, who prosecutes, &c. as the said *J. W.* in his proper person: Whereupon all and singular the premisses being seen, and by Judgment to affirm the judgment of reversal. the same court of Parliament now here more fully understood, and mature deliberation being thereon had, because it seems to the court of Parliament how here, that neither in the record and proceedings aforesaid on the said former writ of error, nor in the rendition of the said judgment of reversal of the judgment on the indictment aforesaid, there is any error, and that that record is in nothing vitious or defective in law; It is considered by the same court of Parliament now here, that the said judgment of reversal of the judgment aforesaid be in all things affirmed and remain in its full force and effect, the said causes and matters above for error assigned in any wise notwithstanding; which said record and proceedings before the said Lord the King and the Peers of this kingdom of *England* so had, by the same court of Parliament before the said Lord the King into the court of the said King before the King himself wheresoever, &c. are remitted.

The award of
restitution by
the King's
court in Ire-
land.

And now at this day, to wit, *Monday* next after 15 days of *St. Martin* in this same term, before the Lord the King at the King's court comes the said *J. W.* in his proper person, and prays that the court of the Lord the King here cause to be done what of right shall be to be done, according to the command of the writ of *mittimus*, as is aforesaid directed; and the tenor of the record and proceedings aforesaid being by the court here inspected, and mature deliberation being thereon had, it is considered, that the said *J. W.* to all things, which he the same *J.* by reason of the judgment and attainder aforesaid hath lost, be restored, &c. and that the writ of the Lord the King of restitution issue on the tenor of the record aforesaid, &c.

Upon which
a writ of er-
ror is brought
in the K. B.
in England.

Afterwards, to wit, *Tuesday* next after three weeks of the Holy Trinity in this same term, before the Lord the King at *Westminster* comes the said *Isabel Dillon*, widow, Countess of *Roscommon*, late wife of *Wentworth Dillon*, late Earl of *Roscommon* in the kingdom of *Ireland*, by *W. B.* her attorney, and says, that in the record and proceedings aforesaid, as also in the rendition of the judgment aforesaid for the restitution aforesaid, there is manifest error, to wit, in this, that the writ of *mittimus* aforesaid gave no warrant, power or authority to the said court of the Lord the King before the King himself at the King's court, to issue the writ of restitution aforesaid: There is error also in this, that no such judgment for restitution, as by the said court of the Lord the King before the King himself at the King's court aforesaid is given, ought by law to be given, and so that judgment for restitution as aforesaid given is void in law and erroneous: Wherefore she prays the judgment of the court here in the premisses, and that that judgment for the restitution aforesaid, for the errors aforesaid and others in the record and proceedings found, may be reversed, annulled and held as void; and that she the said *Isabel Dillon* to all things, which she the said *J.* by reason of the judgment of restitution hath lost, may be restored; and that the court here may proceed to the examination as well of the record and proceedings aforesaid, as of the matters above for errors assigned, &c.

Tho. Cartbrew.

Maddox and Wynne.

Error assigned
to reverse an
outlawry at
the Grand
sessions in
Denbighshire.

Afterwards, to wit, day next after in this same term, before the Lord the King at *Westminster* comes the said *J. M.* by *P. C.* his attorney and says, that in the record and proceedings aforesaid, and also in the proclamation of the outlawry aforesaid there is manifest error, in this, to wit, that the judgment aforesaid in form aforesaid given, was given for the said *J. W.* and *M.* when by the law of the land of this kingdom of *England* that judgment ought to have been given for the said *J. M.* There is error also in the proclamation of the outlawry aforesaid, in this, to wit, that by the award of the several writs of *capias ad satisfaciend'* aforesaid in the record aforesaid specified the sheriff is commanded, that he should take *J. M.* if, &c. and safely, &c. so that he should have his body before the justices, &c. on *Monday* in the next Grand sessions, &c. and it doth not appear whom safely, &c. nor before what justices the said sheriff should have his body, nor for what county the Grand sessions aforesaid was to be held: There is error also in the entry of record of the return of the writ of *capias ad satisfaciend'* last mentioned, in this, to wit, that it doth not appear in what bailiwick nor in what place the said *J. M.* was not found: There is error also in this, that by the record aforesaid it appears, that on the several days given by the court of Grand sessions aforesaid for the return of the several writs of *capias ad satisfac'* in the record aforesaid mentioned, one *John*, without any surname in the record aforesaid, came and appeared by his attorney in the same Grand sessions; therefore by the record aforesaid it doth not appear that the said *J. W.* came upon the same days in the same Grand sessions, nor that the said *J. W.* came and appeared by his attorney in the same Grand sessions; therefore in that there is manifest error: There is error also in the entry of the return of the writ of *exigent*, in this, to wit, that it doth not appear that the sheriff of the county of *D.* returned the writ of *exigent* aforesaid, nor in what place or time the said *J. M.* was first, secondly, thirdly and fourthly proclaimed, and also that in the said record of the entry of the return of the writ of *exigent* aforesaid this word *county* is superfluous and insensible: There is error also in this, that the said *J. M.* was outlawed by the judgment of one of the coroners of the Lord the King of the county aforesaid, when by the law of the land the same *J. M.* ought to have been outlawed by the judgment of the coroners; therefore in the proclamation of the outlawry aforesaid there is manifest error: And he prays the writ of the Lord the King to warn the said *J. W.* and *M.* to be before the Lord the King to hear the record and proceedings aforesaid; and it is granted him, &c. Whereupon the sheriff of the county of *D.* is commanded that by good, &c. he cause notice

It not ap-
pearing by the
capias whom
safely, nor
before what
justices the
sheriff should
have the de-
fendant's
body.
No surname.

Scire facias.

notice to be given to the said *J. W.* and *M.* his wife, that they be before the Lord the King on the Octave of the Holy Trinity wheresoever, &c. to hear the record and proceedings aforesaid, if, &c. and farther, &c. The same day is given to the said *J. M.* &c. On which day before the Lord the King at *Westminster* comes the said *J. M.* by his attorney aforesaid, and the sheriff of *D.* to wit, *E. D. Bart.* returns that he by virtue of the writ aforesaid to him *Scire feci.* therefore directed by *R. E.* and *R. S.* good and lawful men of his bailiwick, had caused notice to be given to the said *J. W.* and *M.* his wife, to be before the Lord the King at the before mentioned term, to do and receive as the same writ in itself commanded and required; which said *J. W.* and *M.* altho' so forewarned, on the fourth day of plea being solemnly called do not come, nor say any thing in bar or preclusion of the several matters aforesaid above for errors respectively assigned, &c. Whereupon the said *J. M.* as before says, that in the record and proceedings aforesaid, and also in the proclamation of the outlawry aforesaid against him the said *J. M.* there is manifest error, alledging the errors aforesaid by him the said *J. M.* in form aforesaid above respectively alledged: And the same *J. M.* prays that the judgment aforesaid, and also the outlawry aforesaid thereon founded, for the errors aforesaid and others as well in the record and proceedings aforesaid as in the proclamation of the outlawry aforesaid respectively appearing, may be reversed, annulled and held as void; and that he the same *J. M.* as well to the common law, as to all things which he by reason of the judgment and outlawry aforesaid hath lost, may be restored; and also that the court of the Lord the King now here may proceed to the examination as well of the record and proceedings aforesaid, as of the several matters aforesaid above for error respectively assigned, &c. And because the court of the Lord the King here are not yet advised to give their judgment of and upon the premises, day therefore is given to the said *J. M.* before the Lord the King from the day of St. Michael in three weeks wheresoever, &c. to hear their judgment thereon, because the court of the Lord the King thereof not yet, &c. On which day before the Lord the King at *Westminster* comes the said *J. M.* by his attorney aforesaid; whereupon all and singular the premises being seen, and by the court of the said Lord the King now here more fully understood and considered, and mature deliberation being thereon had, it is considered, that the outlawry aforesaid, for the errors aforesaid being in the record and proceedings aforesaid, be reversed, annulled and held as intirely void; and that he the same *J. M.* as well to the common law, as to all things which he by reason of the outlawry aforesaid hath lost, be restored; whereupon the said *J. W.* and *M.* by *J. M.* their attorney come and pray a day of imparlance to the errors aforesaid for the reversal of the judgment aforesaid by him the said *J. M.* above in form aforesaid assigned; and it is granted them, &c. And thereupon day thereof is given to the parties aforesaid before the Lord the King until on the Octave of St. Hillary wheresoever, &c. to wit, to the said *J. W.* and *M.* to imparl to those errors, and then to rejoin to those errors, &c. On which day before the Lord the King at *Westminster* come as well the said *J. M.* as the said *J. W.* and *M.* by their attornies aforesaid; whereupon the said *J. M.* as before says, that in the record and proceedings aforesaid, and also in the rendition of the judgment aforesaid, there is manifest error, alledging the errors aforesaid by him in form aforesaid above alledged, and prays that the judgment aforesaid, for those errors and others, being in the record and proceedings aforesaid, may be reversed, annulled and held as intirely void; and that he to all things, which he by reason of the judgment aforesaid hath lost, may be restored; and that the said *J. W.* and *M.* to those errors may rejoin: Whereupon the said *J. W.* and *M.* say, that the record and proceedings aforesaid to the said Lord the King in form aforesaid sent, and before the Lord the King now remaining, is falsly certified, to wit, in the declaration in the record aforesaid, between the words, Whereon the same *J.* and *M.* and the words, Say that whereas the said *J. M.* are falsly certified, these words (by the said *J. W.* one of the attornies of this court in his proper person) when in the record aforesaid, before the justices of the said Lord the King of his Grand sessions of his county of *D.* remaining, are these words (in their proper persons); and also in the certificate of the judgment by *nihil dicit* to the declaration aforesaid in the record aforesaid so as aforesaid certified, between the words, Come as well the said *J.* and *M.* and the words, As the said *J. M.* these words (in their proper persons) are omitted out of the certificate aforesaid, but they are in the record of the judgment aforesaid before the said justices of the said Lord the King of his Grand sessions of the county of *D.* aforesaid remaining; and also between the words, *John M.* by, and the word aforesaid, are falsly certified, these words (their attornies) when in the record of the judgment aforesaid before the said justices of the said Lord the King of his Grand sessions of the county of *D.* aforesaid remaining, are these words (his attorney): Whereupon the said *J. W.* and *M.* pray a writ of the Lord the King to be directed to the justices of the Grand sessions of his county of *D.* aforesaid, to certify the Lord the King more fully the truth thereof; and it is granted them, &c. whereby the justices of the Grand sessions of *D.* are commanded, that searching the rolls of the entries of the declarations and judgments thereon in the Grand sessions of the Lord James the Second, late King of England, of the county of *D.* aforesaid, held at *W.* in the county aforesaid on Monday the 27th day of September in the second year of the reign of the said Lord James the Second, late King of England, &c. before *J. C. Knt.* serjeant at law, and *J. W. Esq;* then justices of the said Lord the King of his Grand sessions of the county of *D.* aforesaid, and what of the false certificates and omissions aforesaid they shall find, to the said Lord the King from the day of Easter in five weeks, wheresoever he shall then be in England, they certify, together with the writ

Default.

Judgment, that the outlawry be reversed.

The defendants appear and pray a day to answer the errors.

And alledge that the record is falsly certified.

Certiorari to the justices of the Grand sessions.

of the Lord the King to them therefore directed : On which day before the Lord the King at *Westminster* *J. J.* Knt. justice of the Lord the King of his Grand sessions of the county of *D.* aforesaid, and *S. L.* Knt. the King's serjeant at law and recorder of the city of *London*, another justice of the said Lord the King of his Grand sessions of the county of *D.* aforesaid, justices of the said Lord the King of his Grand sessions of the county of *D.* aforesaid, have to the said Lord the King returned and certified, that by virtue of the writ of the said Lord the King to them directed, they have searched the rolls of the entries of the declarations and the judgments thereon in the Grand sessions of the Lord *James* the Second, late King of *England* of the county of *D.* aforesaid, held at *W.* in the county aforesaid on Monday the 27th day of *September* in the second year of the reign of the said Lord *James* the Second, late King of *England*, &c. before the said *J. C.* and *J. W.* then justices of the said late Lord the King of his Grand sessions of the county of *D.* aforesaid, being in their custody of record, and have found among the rolls of the same Grand sessions of the entries of the declarations and the judgments thereon of record between the parties aforesaid in the plea aforesaid, that in the declaration aforesaid in the record aforesaid before them remaining, between the words, Whereon the same *J.* and *M.* and the words, Say that whereas the said *J. M.* are not the words (by the said *J. W.* one of the attornies of this court in his proper person) but are these words (in their proper persons; and also they have farther certified, that in the judgment by *nihil dicit* upon the declaration aforesaid of record aforesaid before them remaining, between the words, Come as well the said *J.* and *M.* and the words, As the same *J. M.* are contained these words (in their proper persons); and they have also farther certified, that in the same judgment aforesaid, between the words, *J. M.* by, and the word aforesaid, are not contained these words (their attornies) but are contained these words (his attorney); which said writ, together with the return thereof, is filed among the records of this term of record : And hereupon the same *J.* and *M.* say, that in the record and proceedings aforesaid, and also in the rendition of the judgment aforesaid, there is no error : And likewise pray that the court of the said Lord the King here may proceed to the examination as well of the record and proceedings aforesaid, as of the matters aforesaid above for error assigned; and that the judgment aforesaid may be in all things affirmed : And because the court of the Lord the King now here are not yet advised to give their judgment of and upon the premisses, day therefore is given to the parties aforesaid before the Lord the King until on the morrow of the Holy *Trinity* wherefoever, &c. to hear their judgment thereon, because the court of the Lord the King here thereof not yet, &c.

*In nullo est
erratum.*

Butler and Wilmot.

Error assigned, that the defendant was a prisoner in the *Fleet*, and had not a copy of the declaration delivered to him as the late act directs.

Afterwards, to wit, on *Wednesday* next after 15 days of *Easter* in this same term, before the Lord the King at *Westminster* comes the said *Thomas* by *H. D.* his attorney, and says, that in the record and proceedings aforesaid, as also in the rendition of the judgment aforesaid, there is manifest error, in this, to wit, that after the first day of *May* 1697, to wit, on the 12th day of *July* in the year of the Lord 1698, he the same *Thomas* was committed and then was a prisoner in the prison of the Lord the King of the *Fleet*, and so remained until the first day of *A.* in the year of the Lord 1699, to wit, at *London* in the parish of *St. Bridget*, otherwise *Brides*, in the ward of *Farringdon Without*; and he the said *Thomas* so in the prison aforesaid being imprisoned, at any time after the said first day of *May* no declaration in the record and proceedings aforesaid mentioned was filed or entered with any prothonotary of the court of the said Lord the King of Common Pleas, being the proper officer of the same court of Common Pleas for filing and entering of all declarations in the same court in such case, according to the form and effect of a certain act of Parliament in such case thereof lately made and provided, against him the said *Thomas*, at the suit of the said *Rush*, according to the form of the statute aforesaid; nor any copy of such declaration at any time after the said first day of *May* was delivered to him the said *Thomas*, or to the turnkey or porter of the said prison of the *Fleet*, nor any affidavit made of such delivery before the Lord chief justice, or before any other of the justices of the Common Pleas by any person whomsoever, as according to the form and effect of the act aforesaid is required, nor any appearance by any attorney of the same court of Common Pleas aforesaid was enter'd for him the said *Thomas*, at the suit of the said *Rush* in the plea aforesaid; therefore the said *Thomas* says, that in that there is manifest error, and prays that the judgment aforesaid for those errors may be reversed, annulled and held as intirely void; and that the said *Rush* to those errors may rejoin, &c.

8 & 9 W. 3.
c. 26. §. 13.

Nor to the
turnkey.

Nor any affi-
davit made.

John Wall plaintiff; *John Town* defendant.

To the Right Honourable the Master of the Rolls:

The humble petition of Mary Wall, widow, administratrix of the goods and chattels of John Wall, her late husband deceased,

Sheweth, That your petitioner's late husband having a debt of one hundred pounds upon bond due to him from the defendant, and a warrant of attorney to confess judgment thereupon in the court of Common Pleas in *Hillary* term in the 8th year of her late Majesty Queen Anne, employed Mr. *James Harrington*, late of *New Inn* in the county of *Middlesex*, deceased, who was an attorney of the said court, to enter up a judgment pursuant to the said warrant of attorney; which judgment the said Mr. *Harrington* entered accordingly. Petition for leave to file an original.

That the said defendant being ever since the entry of the said judgment in mean circumstances, and not in any capacity to pay the said debt, no process was ever sued out, nor any use made of the said judgment.

That the plaintiff, your petitioner's late husband, being lately dead, and the reversion of a real estate, to which the defendant was intitled, being now liable to satisfy the said judgment, your petitioner took out letters of administration to her said husband in order to recover the said debt, and having employed an attorney to revive the said judgment, your petitioner is by him informed, that altho' the said judgment is entered on record in the said court of Common Pleas, yet upon search with the *custos brevium* of the said court, he cannot find any original filed to warrant the same.

That the said *James Harrington*, who neglected to file an original in this cause, died insolvent, whereby your petitioner, who is a poor widow, and hath very little to depend on besides the matter in question, if not relieved by your honour, inevitably must lose a just debt, and be without remedy for any satisfaction for the same.

And for that there is no writ of error brought on the said judgment, your petitioner most humbly prays your honour's order to the curfitor of *Herefordshire* for the making out of an original on the instructions hereunto annexed.

And your petitioner shall ever pray, &c.

Taylor and another and Ford.

Afterwards, to wit, on *Wednesday* next after the King at *Westminster* come the said *W. T.* and *J. B.* by *J. S.* their attorney, and say, that in the record and proceedings aforesaid, and also in the rendition of the judgment aforesaid, there is manifest error, in this, to wit, that the judgment aforesaid was given for the said *J. F.* against the said *W. T.* and *J. B.* when by the law of *England* that judgment ought to have been given for the said *W. T.* and *J. B.* against him the said *J. F.* therefore in that there is manifest error: It is erroneous also in this, to wit, that no writ of *scire facias* in the court of the Lord the King of the Bench, or in the custody of the *custos brevium* of the Bench aforesaid, remains filed to warrant the declaration and entry of the writ of *scire facias* in the record aforesaid above specified; therefore in that likewise there is manifest error: It is erroneous also in this, to wit, that by the record aforesaid it is mentioned, that the said *J. F.* in the record aforesaid named appeared by *W. G.* his attorney, nevertheless the same *W. G.* had no warrant of attorney of record in the court of the Lord the King of the Bench filed to warrant the appearance of him the said *W. G.* for the said *J. F.* against the said *W. T.* and *J. B.* in the plea aforesaid; therefore in that it is manifestly erroneous: And the same *W. T.* and *J. B.* pray several writs of the Lord the King, to wit, one of them to the chief justice of the Lord the King of the Bench, and the other of them to the *custos brevium* of the Bench aforesaid, to be directed, to certify the said Lord the King more fully of the truth thereof; and they are granted them, &c. No *scire facias* filed assigned for error.

Strode and Palmer.

Error in Parliament on a judgment on a writ of *Mandamus*.

GEORGE, &c. To our trusty and well beloved Thomas Lord Parker, Baron of Macclesfield, our chief justice assigned to hold pleas before us, greeting: Because in the record and proceedings, and also in the rendition of the judgment of a plea which was in our court before us by our writ of *Mandamus* in the nature of an action on the case, according to the form of the statute in this case made and provided, between George Strode and John Palmer, as it is said, a manifest error hath happened, to the great damage of the said John, as by his complaint we have understood; We willing the error, if any hath been, should be duly corrected, and full and speedy justice done to the parties in this behalf, command you, that if judgment be therein given, then the record and proceedings aforesaid with all things touching them to us in our present Parliament under your seal distinctly and openly without delay you send, and this writ; that the record and proceedings aforesaid being inspected, we may farther cause to be done therein, with the assent of the Lords Spiritual and Temporal in the same Parliament being, to correct that error what of right and according to the law and custom of England shall be to be done. Witness Ourself at Westminster 4th day of June in the 3d year of our reign.

By the Lord the King.

Parnell.

The answer of Thomas Lord Parker, Baron of Macclesfield, the chief justice within named:

The record and proceedings of the plea whereof mention is within made, with all things touching them, to the Lord the King in the present Parliament with my proper hands I have produced in a certain record to this writ annexed, as I am within commanded.

Parker.

Pleas before the Lord the King at Westminster of Hillary term in the first year of the reign of the Lord George now King of Great Britain, &c. Roll 202. among the pleas of the crown.

Somerſet, to wit. **O**therwise, to wit, on the 20th day of November in the 1st year of the reign of the Lord George now King of Great Britain, &c. before the said Lord the King at Westminster, the same Lord the King sent to John Palmer, bailiff of his borough of Ivelcheſter in his county of Somerſet, his writ close in these words: George, &c. To John Palmer, bailiff of our borough of Ivelcheſter in our county of Somerſet, greeting: Whereas George Strode into the place and office of one of the capital burgesſes of the borough aforesaid was duly elected and appointed, and by you into the place and office aforesaid ought to be admitted and sworn; and whereas the same George Strode, after such his election aforesaid, the oath in that case usual before you was ready and offered himself to take, and by you into the place and office aforesaid to be admitted and sworn demanded: Nevertheless you the bailiff of the borough aforesaid not ignorant of the premises, but your duty in this behalf little regarding, the oath in that case usual to the said George Strode to administer, and the same George into the place and office aforesaid to admit and swear, have altogether refused, and yet do refuse, in contempt of us, and to the great damage of the said George, and the manifest prejudice of his estate, as by his complaint we have understood; We therefore willing that due and speedy justice be done in this behalf as is right, command and firmly injoin you, that immediately after the receipt of this writ, the oath in that case usual to the said George you administer, and the same George into the place and office aforesaid you admit, and to the things, together with all liberties, privileges and franchises to the place and office aforesaid belonging and appertaining, or cause to us to the contrary thereof signify, left in your default complaint should come to us repeated; and how this our writ you shall have executed make known to us at Westminster on Monday next after the Octave of St. Hillary, this our writ to us then remitting: And this in no wise omit at your peril. Witness T. Parker, Knt. at Westminster 20th day of November in the 1st year of our reign. On which Monday next after the Octave of St. Hillary before the Lord the King at Westminster the said John Palmer returns the writ aforesaid as follows:

The answer of John Palmer bailiff of the borough of Ivelcheſter within mentioned.

I John Palmer, bailiff of the borough of Ivelcheſter within mentioned, to the most Serene Lord the King most humbly certify, that the within named George Strode was not elected and

and appointed into the place and office of one of the capital burgesſes of the borough aforeſaid, as by that writ within is ſuppoſed; and therefore the oath in that caſe uſual to the ſame *John Strode* I cannot adminiſter, nor the ſame *John Strode* into the place and office aforeſaid ought to admit and ſwear, as by that writ I am within commanded.

John Palmer.

And upon this on the ſame *Monday* next after the Octave of *St. Hillary* before the ſaid Lord the King at *Weſtminſter* comes as well the ſaid *G. S.* in the writ and return aforeſaid named by *R. B.* his attorney, as the ſaid *J. P.* in the ſame writ and return likewise named, by *H. M.* his attorney; and the ſaid *G. S.* ſays, that he the ſame *G. S.* into the place and office of one of the capital burgesſes of the borough aforeſaid was elected and appointed, as by the writ aforeſaid is ſuppoſed: And this the ſame *G. S.* prays may be inquired of by the country: And the ſaid *J. P.* thereof likewise, &c. Therefore to try the iſſue aforeſaid in form aforeſaid joined, at the petition of the ſaid *G. S.* the ſheriff of the county of *Somerſet* aforeſaid is commanded, that he doth not omit, &c. but cauſe to come before the ſaid Lord the King at *Weſtminſter* on *Saturday* next after the Octave of the Purification of the Bleſſed Virgin *Mary* twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. becauſe as well, &c. The ſame day is given as well to the ſaid *G. S.* as to the ſaid *J. P.* On which ſaid *Saturday* next after the Octave of the Purification of the Bleſſed Virgin *Mary* before the ſaid Lord the King at *Weſtminſter* comes as well the ſaid *G. S.* by his attorney aforeſaid, as the ſaid *J. P.* by his attorney aforeſaid; and the ſheriff hath not returned thereof the writ; therefore as before, to try the iſſue aforeſaid in form aforeſaid joined, at the petition of the ſaid *G. S.* the ſheriff of the county of *Somerſet* aforeſaid is commanded, that he doth not omit, &c. but cauſe to come before the ſaid Lord the King at *Weſtminſter* on *Wednesday* next after 15 days of *Eaſter* 12, &c. by whom, &c. and who neither, &c. to recognize, &c. becauſe as well, &c. The ſame day is given as well to the ſaid *G. S.* as to the ſaid *J. P.* On which ſaid *Wednesday* next after 15 days of *Eaſter* before the ſaid Lord the King at *Weſtminſter* comes as well the ſaid *G. S.* by his attorney aforeſaid, as the ſaid *J. P.* by his attorney aforeſaid; and the ſheriff hath not returned thereof the writ; therefore as oftentimes, to try the iſſue aforeſaid in form aforeſaid joined, at the petition of the ſaid *G. S.* the ſheriff of the county of *Somerſet* aforeſaid is commanded, that he doth not omit, &c. but cauſe to come before the ſaid Lord the King at *Weſtminſter* on *Friday* next after the morrow of the Holy *Trinity* 12, &c. by whom, &c. and who neither, &c. to recognize, &c. becauſe as well, &c. The ſame day is given as well to the ſaid *G. S.* as to the ſaid *J. P.* On which ſaid *Friday* next after the morrow of the Holy *Trinity* before the ſaid Lord the King at *Weſtminſter* comes as well the ſaid *G. S.* by his attorney aforeſaid, as the ſaid *J. P.* by his attorney aforeſaid; and the ſheriff of the county of *Somerſet* aforeſaid returns the names of twelve jurors, of whom none, &c. Therefore the ſheriff of the county of *Somerſet* aforeſaid is commanded, that he doth not omit, &c. but diſtrain them by all their lands, &c. and that of the iſſues, &c. ſo that he may have their bodies before the ſaid Lord the King at *Weſtminſter* on day next after three weeks of *St. Michael*, or before the juſtices of the ſaid Lord the King assigned to take aſſiſes in the county of *Somerſet* aforeſaid, if they ſhall firſt come on *Monday* the ſecond day of at *Chard* in the county aforeſaid, by the form of the ſtatute, &c. for want of jurors, &c. Therefore let the ſheriff have the bodies, &c. to recognize in form aforeſaid: The ſame day is given as well to the ſaid *G. S.* as to the ſaid *J. P.* On which ſaid *Wednesday* next after three weeks of *St. Michael* before the ſaid Lord the King at *Weſtminſter* comes as well the ſaid *G. S.* by his attorney aforeſaid, as the ſaid *J. P.* by his attorney aforeſaid, and the ſaid juſtices of aſſiſes before whom, &c. have ſent here their record before them had in theſe words: Afterwards the day and place within contained before *J. Pratt*, Kt. one of the juſtices of the Lord the King assigned to hold pleas before the King himſelf, and *James Mountague*, Kt. one of the barons of the Exchequer of the ſaid Lord the King, juſtices of the ſaid Lord the King assigned to take aſſiſes in the county of *Somerſet*, by the form of the ſtatute, &c. comes as well the within named *G. S.* as the within written *J. P.* by their attorneys within contained, &c. and the jurors of the jury, whereof mention is within made, being called, one of them, to wit, *John Silveſter* comes and on that jury is ſworn; and becauſe the reſt of the jurors of the ſame jury have not appeared, therefore others from the by-ſtanders by the ſheriff of the county aforeſaid hereto elected, at the requeſt of the ſaid *G. S.* and by the command of the juſtices aforeſaid, are added anew, whoſe names are annexed to the panel within written, according to the form of the ſtatute in ſuch caſe made and provided; and the jurors ſo added anew, to wit, *J. R. J. W. T. P. R. G. W. B. J. E. W. E. W. W. H. A. R. B.* and *W. W.* being called likewise come, who to ſay the truth of the within contained, together with the other jurors aforeſaid firſt hereto impanelled and ſworn, being elected, tried and ſworn, ſay on their oath, that the ſaid *G.*

Venire awarded returnable 22nd per.

Return of the Venire.

Diſtringes awarded returnable 17th Mich. &c.

13 E. 1. c. 30.
12 E. 2. c. 4.
14 E. 3. c. 16.

The poſtea.

35 H. 8. 6.

S. into the place and office of one of the capital burgesses of the borough of *Ivelbester* within mentioned was elected and appointed, as by the writ within specified is within supposed: Whereupon all and singular the premisses being seen, and by the court here understood, it is considered by the court here, that the said G. S. recover against the said J. P. the sum of 35*l.* for his costs and charges about his suit in this behalf expended, according to the form of the statute in such case made and provided.

Errors assigned.

Bill of exceptions.
Pract. Reg.
232.

13 E. 1. c. 31.

Afterwards, to wit, the 8th day of *March* in the fourth year of the reign of the Lord *George*, now King of *Great Britain*, &c. before the said Lord the King and the Peers of this realm in the present Parliament at *Westminster* in the county of *Middlesex* assembled comes the said J. P. in his proper person and says, that in the record and proceedings aforesaid, and also in the rendition of the judgment aforesaid, there is manifest error, in this, to wit, that by the record aforesaid it appears, that the judgment aforesaid in form aforesaid given, was given for the said G. S. against the said J. P. when by the law of *England* that judgment ought to have been given for the said *John* against him the said *George*; therefore in that it is manifestly erroneous: And the said J. P. farther says, that at the assises held at *Chard* in the county of *Somerset*, to wit, the second day of _____ in the second year of the reign of the said Lord the now King aforesaid, in the record aforesaid above mentioned, before the said *John Pratt*, Kt. and *James Mountague*, Kt. then justices of the said Lord the King assigned to take assises in the county of *Somerset* aforesaid, &c. on the trial of the issue aforesaid in the record aforesaid above joined, certain exceptions on the behalf of the said J. P. by the counsel learned in the law of the said *John* were taken and made to the opinion of the said *James Mountague*, Kt. then one of the justices, &c. by him then and there declared; by which the same J. *Mountague*, Kt. then one of the justices, &c. declared, that a certain matter on the behalf of the said J. P. in the plea aforesaid, by the said counsel learned in the law of the said *John*, to the jurors aforesaid then and there offered to be given in evidence (in opposition and contradiction of certain other matter then and there on the behalf of the said G. S. in the same plea given in evidence) then and there on the trial of the issue aforesaid ought not to be given or admitted: And the same J. *Mountague*, Kt. then one of the justices, &c. the matter offered then and there to those jurors in evidence to be given altogether refused to admit or permit; which said exceptions in a certain bill then and there were wrote; and the said J. *Mountague*, Kt. then one of the justices, &c. then and there set his seal to the bill of exceptions aforesaid, according to the form of the statute in such case thereof made and provided: And the same J. P. produces in the court of the Lord the King before the Lord the King in his Parliament here the bill of exceptions aforesaid, with the seal of the said J. *Mountague* Kt. then one of the justices, &c. put to the same bill: And the said J. P. prays the writ of the Lord the King to be directed to the same J. *Mountague*, Kt. to command the same J. *Mountague*, Kt. to be before the Lord the King in the court of his Parliament at *Westminster* to confess or deny his seal, &c. and to him it is granted, &c.

Recital of the record and judgment.

BE it remembered that otherwise, to wit, 20th day of *November* in the first year of the reign of the Lord *George*, now King of *Great Britain*, &c. before the said Lord the King at *Westminster* the same Lord the King sent to J. P. bailiff of his borough of *Ivelbester* in his county of *Somerset*, his writ close in these words, to wit, *George* by the Grace of God of *Great Britain*, *France* and *Ireland* King, defender of the faith, &c. To J. P. bailiff of our borough of *Ivelbester* in our county of *Somerset*, greeting: Whereas G. S. into the place and office of one of the capital burgesses of the borough aforesaid was duly elected and appointed, &c. (reciting the writ and return of the issue and award of the venire, and continue word for word over again to) On which said *Friday* next after the morrow of the Holy *Trinity* before the said Lord the King at *Westminster* came as well the said G. S. by his attorney aforesaid, as the said J. P. by his attorney aforesaid; and the sheriff of the county of *Somerset* aforesaid return'd the names of 12 jurors, whereof none, &c. Therefore the sheriff of the county of *Somerset* was commanded, that he should not omit, &c. but distrain them by all their lands, &c. and that of the issues, &c. so that he might have their bodies before the said Lord the King at *Westminster* on day next after three weeks of *St. Michael*, or before the justices of the said Lord the King assigned to take assises in the county of *Somerset* aforesaid, if they should first come on _____ day the second day of _____ at *Chard* in the county aforesaid, by the form of the statute, &c. for want of jurors, &c. Therefore let the sheriff have the bodies, &c. to recognize, &c. in form aforesaid, &c. The same day was given as well to the said G. S. &c. as to the said J. P. &c. which said issue in form aforesaid joined between the parties aforesaid afterwards, to wit, at the assises held here at this day, to wit, at *Chard* in the county aforesaid,

aforesaid, on Monday, to wit, the 2d day of in the 2d year of the reign of the said Lord the now King, before *John Pratt*, Knt. one of the justices of the said Lord the King assigned to hold pleas before the King himself, and *James Mountagus*, Knt. one of the Barons of the Exchequer of the said Lord the King at *Westminster*, justices of the said Lord the King assigned to take assises aforesaid in and for the said county of *Somerset* by the form of the statute, &c. came to trial. On which day here came as well the said *George Strode* as the said *John Palmer* by their attornies aforesaid: And the jurors of the jury aforesaid impanelled to try the issue aforesaid being called likewise came: And on the trial of the issue aforesaid so as aforesaid joined, the said *George Strode* by his counsel learned in the law to maintain and prove the issue aforesaid on his behalf then and there gave in evidence and proved, that the right of electing capital burgesses of the borough aforesaid is in the major part of the capital burgesses of that borough then living, before the bailiff of the same borough for the time being, and that he the same *George* into the same place and office of one of the capital burgesses of the borough aforesaid was elected by *H. L. T. L. J. L. G. R. T. B.* and *W. C.* then being the major part of the capital burgesses of that borough duly assembled; whereupon the counsel learned in the law on the behalf of the said *John Palmer*, for and on the behalf of the same *John*, in opposition and contradiction of that evidence so as aforesaid given to the same jury, then and there offered to give and prove in evidence, that at the time when the election of the said *George* is supposed to be made, the said *H. L.* was not a capital burgess of the borough aforesaid, and therefore had no right, authority or power, of electing a capital burgess of the borough aforesaid, and by reason thereof the vote of the said *Humphrey Lockyer* ought not to be reckoned in that election to cause the said *George Strode* to be elected one of the capital burgesses of the borough aforesaid, and insisted, that the vote of the said *H. Lockyer* in that election ought not to have been given or admitted; and the same counsel on the behalf of the said *John Palmer* then farther alledged and insisted, that they ought to be admitted to give that matter in evidence, because the said *John Palmer* had long before the said assises, to wit, on the 24th day of *March* in the year of the Lord 1715, giving notice in writing to the said *George Strode*, that he the same *John Palmer* on the trial of that issue would insist on the said matter so as aforesaid offered to be given in evidence on his behalf in these words following. *Strode against Palmer. Take notice, that at the trial of this cause at the next assises for the county of Somerset the defendant will insist, that William Cleve's vote and George Hilborne's vote shall not be allowed as good votes on the plaintiff's election, William Cleve having been never well elected a capital burgess, and Mr. Hilborne not being capable to be elected, not being an inhabitant when elected. And having since been both turned out, have brought their Mandamus's to be restored, which are yet depending; and that Humphrey Lockyer's vote shall not be allowed, he not having been elected capital burgess by a majority of the burgesses; and a rule for an information nisi being now actually against him in the King's Bench; and that the original corporation book now in the hands of Mr. John Lockyer, the pretended bailiff, wherein the election of William Cleve is entered, and by the said Mr. John Lockyer produced at the several trials of the said William Cleve and Mr. Hilborne, may be produced at the trial of this cause at the next assises; but these notwithstanding, the counsel learned in the law on the behalf of the said George Strode thereto objected and insisted on this, that the right, authority or power, of the said Humphrey Lockyer, to give his vote as a capital burgess of the borough aforesaid in the said election, at the time of that election was not excepted against in the said election by any person then present, but the vote of the said Humphrey was accepted as a good vote by Thomas Smith the then bailiff of the borough aforesaid in the said election, the said matter, on the behalf of the said John Palmer so as aforesaid offered to be given in evidence at the trial of that issue, ought not to be given or admitted: Nevertheless the counsel on the behalf of the said John Palmer did then at the trial of that issue insist before the said justice, that they ought to be admitted to give in evidence the said matter on the behalf of the said John so as aforesaid offered, in opposition and contradiction of the said evidence for and on the behalf of the said George Strode in form aforesaid given, and prayed the said justice that they might be admitted to give the said matter in evidence for and on the behalf of the said John Palmer; which the said justice then absolutely refused to permit or admit, and declared his opinion, that the said matter, on the behalf of the said John Palmer so as aforesaid offered to be given in evidence then at the trial of the issue aforesaid, ought not to be given or admitted; and thereupon the jurors aforesaid gave their verdict for the said George Strode against the said John Palmer; whereupon the said counsel for and on the behalf of the said John Palmer, because the matter aforesaid in the exception offered doth not appear by the record of the verdict aforesaid, did alledge their exception aforesaid to the opinion of the said justice, and require,*

The excep-
tions.

The notice
what plaintiff
would insist
on.

require, that the said justice would put his seal to this bill of exception, containing in itself the matter aforesaid on the behalf of the said *John Palmer* so as aforesaid offered, according to the form of the statute in such case made and provided; and thereupon the same justice at the request of the counsel of the said *John Palmer* did put his seal thereto according to the form of that statute, at *Chard* sitting the court, the said 2d day of in the 2d year of the reign of the Lord the now King.

Hawley and Monger.

Infancy assigned for error.

The writ of error coram vobis.

Afterwards, to wit, on *Tuesday* next after the Octave of the Purification of the Blessed *Mary* then next following, before the Lady the Queen at *Westminster* came the said *John Hawley* being yet under the age of 21 years, to wit, of the age of 20 years, and no more, by *S. P.* his guardian duly admitted, and produced here in the court of the said Lady the Queen then there a certain writ of the said Lady the Queen to correct error prosecuted of and upon the premisses; and prayed, that the writ of error aforesaid by the court of the said Lady the Queen before the Queen herself now here might be allowed; which said writ follows in these words, to wit, *Anne* by the Grace of God of *Great Britain, France and Ireland* Queen, defender of the faith, &c. To our justices assigned to hold pleas in our court before us, greeting: Because in the record and proceedings, and also in the rendition of the judgment of a plea which was in our court before us by bill, between *John Monger* and *John Hawley*, of a certain trespass on the case to the said *John Monger* by the said *John Hawley* done, as it is said, a manifest error hath happened, to the great damage of the said *John Hawley*, as by his complaint we have understood; We willing the error, if any hath been, should be duly corrected, and full and speedy justice done to the parties in this behalf, command you, that the record and proceedings aforesaid being inspected, you farther cause to be done therein to correct that error what of right and according to the law and custom of *England* shall be to be done. Witness Ourself at *Westminster* 7th day of *February* in the 11th year of our reign.

Fijb.

Allowed 10th February in the 11th year of Queen Anne by the court.

The error.

Scire facias awarded.

Afterwards, to wit, on *Wednesday* next after fifteen days of *Easter* then next following, before the said Lady the Queen at *Westminster* comes the said *John Hawley* by the said *S. P.* his guardian, and says, that in the record and proceedings aforesaid, and also in the rendition of the judgment aforesaid, there is manifest error, in this, to wit, that he the said *John Hawley* at the time of his appearance, and of the rendition of the judgment aforesaid, was under the age of 21 years, to wit, of the age of twenty years, four months and five days, and no more, to wit, at *Westminster* aforesaid in the county aforesaid, in which case the same *John Hawley* ought to be admitted to appear in the court aforesaid to defend the suit aforesaid by his guardian, and not by attorney, nor in his proper person; therefore, because he the said *John Hawley* did not appear in the suit aforesaid by his guardian, in that there is manifest error; And this he is ready to verify: Wherefore the said *John Hawley* prays, that the judgment aforesaid for the error aforesaid may be reversed, annulled and held as intirely void; and that he to all things, which he by reason of the judgment aforesaid hath lost, may be restored: And he prays a writ of the Lady the Queen, to warn the said *John Monger* to be before the said Lady the Queen to hear the record and proceedings aforesaid; and to him it is granted, &c. whereby the sheriff of the county of *Middlesex* aforesaid is commanded, that by good and lawful men of his bailiwick he notify to the said *John Monger* that he be before the said Lady the Queen on wheresoever, &c. to hear the record and proceedings aforesaid, if, &c. and farther to do, &c. The same day is given to the said *John Hawley*, &c.

Moort

Moore and Johnson.

AND therefore in that there is manifest error: And the same *Edward Johnson* prays Error assigned
 several writs of the said Lord the King, one of them to be directed to *Peter King*, Kt. after a verdict.
 chief justice of the Lord the King of the Bench aforesaid, and the other of them to be di- No original,
 rected to *George Henry* Earl of *Litchfield*, keeper of the writs and rolls of the court of the and a certi-
 said Lord the King of the same bench, to certify the said Lord the King more fully the orari prayed,
 truth thereof; and they are granted him, &c. Whereupon *George Henry* Earl of *Litchfield*, ginal certified.
 the keeper of the writs and rolls of the court of the said Lord the King of the Bench afore- 18 El. c. 14.
 said is commanded, that searching the original writs of *London* aforesaid of *Trinity* term of Want of ori-
 the fifth year of the reign of the said Lord the King, being in his custody of record, and ginal or war-
 what of the writ aforesaid between the parties aforesaid he shall find, to the said Lord the rant of attor-
 now King without delay, wheresoever, &c. he certify, together with the writ of the said ney after non
 Lord the King to him therefore directed; which said keeper of the writs hath thereon assumpsit for
 returned and certified to the said Lord the King, that by virtue of the writ to him directed, error.
 having searched the original writs of the said Lord the King of the city of *London* of *Trinity*
 term in the fifth year of his reign aforesaid in his custody filed of record, there is no origi-
 nal writ between the parties aforesaid in the plea aforesaid in his custody filed of the said
 term, which he can certify to the said Lord the King; which said writ of *certiorari*, toge-
 ther with the return of the same, is filed among the records without day of that term; and
 as to the return of the said writ of *certiorari* above prayed to the said *Peter King*, Knt. chief
 justice of the said Lord the King of the Bench aforesaid, to certify whether any warrant of
 attorney between the parties aforesaid in the plea aforesaid be filed of record or not, the
 same chief justice of the said Lord the King hath not returned thereof the writ, nor done
 any thing therein; and thereupon the said *Samuel* freely here in court comes and immediately
 says, there is no error either in the record and proceedings aforesaid, or in the rendition of
 the judgment aforesaid, and prays that the court of the said Lord the King now here may
 proceed to the examination as well of the record and proceedings aforesaid, as of the
 matters aforesaid above for error assigned, and that the judgment aforesaid may be in all
 things affirmed: But because the court of the said Lord the King now here are not yet ad- This judg-
 vised to give their judgment of and upon the premisses, day therefore is given to the par- ment was af-
 ties aforesaid before the said Lord the King until wheresoever, &c. to hear their judg- firmed.
 ment thereon, because the court of the said Lord the King now here thereof not yet, &c.

Williams and Fowler.

AND the said *William Williams* by *Matthew Gaddicott* his attorney comes and says, that General et-
 in the record and proceedings aforesaid, as also in the rendition of the judgment afore- rors assigned
 said, there is manifest error, in this, because by the record aforesaid it appears that the judg- by the plain-
 ment aforesaid was given for the said *William Fowler* against him the said *William Williams*, tiff on a judg-
 when by the law of the land that judgment ought to have been given for the said *W. Wil-* ment for the
 liams against the said *W. Fowler*: There is error also in this, that where by the record afore- defendant in
 said it appears that the judgment aforesaid was given, that the said *W. Fowler* might go the action.
 thereof without day, and that the said *W. Fowler* might recover against the said *W. Williams*
 16 l. 10 s. to the same *W. Fowler*, according to the form of the statute in such case made 23 H. 8. c. 15.
 and provided, adjudged for his costs and charges by him in that behalf sustained: Never- 8 El. c. 2.
 theless the same judgment ought to have been given, that the said *W. Williams* should
 recover against the said *W. Fowler* his damages by reason of the non-performance of the
 promises and assumptions aforesaid of the said *William Norris* the intestate aforesaid of the
 said *W. Fowler*, as also his costs and charges which he the said *W. Williams* had sustained in
 and about that suit of the goods and chattels of the said *W. Norris* in the hands of the said
W. Fowler to be administred, if he had so much in the hands of the said *W. Fowler* to be
 administred; and if he had not, then those costs and charges to be levied of the proper
 goods and chattels of the said *W. Fowler*; therefore in that there is manifest error: And
 the same *W. Williams* prays that for those errors and other errors in the record and pro-
 ceedings aforesaid appearing, the judgment aforesaid may be reversed, annulled and held as
 void; and that he the said *W. Williams* to all things which by reason of that judgment he
 hath lost may be restored; and that such judgment may be given in this court for the said
W. Williams as by the law of the land of this kingdom ought to have been given for the
 same *W. Williams* against the said *W. Fowler* in the said court of the said Lord the King of
 the Bench; and that the said *W. Fowler* to those errors may rejoin, &c.

Edw. Whitaker.

T t t

Gratton

Gratton and another
and
Leeds. } *Error in ejectment.*

Assignment of error in a record out of Ireland where the judgment in C. B. was affirmed by the King's court there.

AFTERWARDS, to wit, *Monday* next after three weeks of *St. Michael* in that same term, before the Lord the King at *Westminster* in the county of *Middlesex* the said *Richard Power* and *Richard Gratton* by *John Allen* their attorney come and say, that in the record and proceedings aforesaid, as also in the rendition of the judgment aforesaid in the record aforesaid mentioned, there is manifest error, in this, to wit, that the declaration aforesaid, and the matter in the same contained, are not sufficient in law for him the said *Theodore Leeds* to maintain his action aforesaid thereof against them the said *R. Power* and *R. Gratton* had; and therefore in that there is manifest error: There is error also in this, that by the record aforesaid it appears, that the judgment aforesaid by the said court of the said Lord the King of the Common Bench in the Kingdom of *Ireland* in form aforesaid given, was given for the said *Theodore* against them the said *R. Power* and *R. Gratton*, when by the law of the land of the said Kingdom of *Ireland* that judgment ought to have been given for the said *R. Power* and *R. Gratton* against the said *Theodore*; therefore in that there is manifest error: There is error also in this, that by the record and proceedings aforesaid in the rendition of the said judgment of affirmance of the said judgment above first by the said court of Common Bench in the Kingdom of *Ireland* given, it appears that that judgment by the said court of the said Lord the King before the King himself in *Ireland* was affirmed, when that judgment by the same court ought to have been reversed, and so there is manifest error in the rendition of the said judgment of affirmance of the said judgment in the said court of Common Bench so as aforesaid first given; therefore in that there is manifest error: And they pray that as well the said judgment of affirmance aforesaid, as the said judgment by the said court of Common Bench as aforesaid given, for the error aforesaid and others being in the record and proceedings aforesaid, may be reversed, annulled and held as intirely void; and that they may be restored to all things which they have lost by reason of the said several judgments.

C. Wearg.

Phelipps and Smith.

Writ of error returnable in Parliament to reverse the affirmance of a judgment in the Exchequer chamber.

GEORGE by the grace of God of *Great Britain, France and Ireland* King, defender of the faith, &c. To our trusty and well beloved *John Pratt*, Knt. our chief justice assigned to hold pleas in our court before us, greeting: Whereas in the record and proceedings, as also in the rendition of the judgment of a plea which was in our court before us by bill between *Edward Phelipps*, Esq; and *Thomas Smith*, Gent. for a certain debt which the said *Edward* demanded of the said *Thomas*, which said record and proceedings, by reason of error happening, we caused to be brought before the justices of the Common Bench and the barons of our Exchequer into our Exchequer chamber aforesaid, and the judgment thereof is affirmed, as it is said, manifest error hath happened, to the great damage of the said *Thomas*, as by his complaint we have understood: We willing the error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, command you, that if judgment thereof be given and affirmed, then the record and proceedings, with all things touching them, to us in our present Parliament under your seal you distinctly and openly without delay send, and this writ, that the record and proceedings aforesaid being inspected, we may farther cause to be done therein, with the assent of the Lords Spiritual and Temporal being in the same Parliament, to correct that error, what of right and according to the law and custom of *England* shall be to be done. Witness Ourself at *Westminster* 12th day of *December* in the fifth year of our reign.

By the Lord the King.

Parnell.

The answer of John Pratt, Knt. the chief justice within named:

The return.

The record and proceedings of the plea whereof mention is within made, with all things touching them, to the Lord the King in the present Parliament with my proper hands I have produced in a certain record to this writ annexed, as I am within commanded.

John Pratt.

Plus

Pleas before the Lord the King at Westminster of Trinity term in the second year of the reign of the Lord George now King of Great Britain, &c. Roll 460.

Somerset, to wit. **E** *Edward Pbelipps, Esq;* puts in his place *Henry Gandy* his attorney against *Warrant of Thomas Smith* bailiff of the borough of *Iwelchefer*, in a plea of debt. attorney for the plaintiff.

Somerset, to wit. **T** *Thomas Smith* puts in his place *James Long* his attorney at the suit of *The like for Edward Pbelipps, Esq;* in a plea of debt. the defendant.

Pbelipps, Esq; and Smith.

Somerset, to wit. **B** *E* it remembered, that otherwise, to wit, in *Easter* term in the 1st year of the reign of the Lord the now King, before the Lord the King at *Westminster* came *Edward Pbelipps, Esq;* by *Henry Gandy* his attorney, and produced here in the court of the said Lord the King then there his certain bill against *Thomas Smith*, bailiff of the borough of *Iwelchefer* in the county aforesaid, in the custody of the marshal, &c. in a plea of debt: And there are pledges to prosecute, to wit, *John Doe* and *Richard Roe*: Which said bill follows in these words, to wit, *Somerset, to wit, Edward Pbelipps, Esq;* complains of *Thomas Smith*, bailiff of the borough of *Iwelchefer* in the county aforesaid, being in the custody of the marshal of the *Marshalsea* of the Lord the King before the King himself, in a plea that he render to him 500 *l.* which he owes him and unjustly detains, for this, to wit, that whereas the town of *Iwelchefer* aforesaid in the county aforesaid is an ancient borough, and that two burgesses of the same borough to come to every Parliament of the Lord the King and his predecessors Kings and Queens of *England* from time immemorial have been elected, and have been accustomed to be elected by the burgesses and inhabitants of the same borough in that behalf having votes: And whereas a certain writ of the Lord the now King out of his Chancery at *Westminster* in the county of *Middlesex* 17th day of *January* in the 1st year of his reign, bearing date the same day and year, did issue, directed to the sheriff of *Somerset* aforesaid; by which said writ, reciting, because the same Lord the King with the advice and assent of his council for certain great and urgent affairs concerning the King himself, the estate and defence of his kingdom of *Great Britain* and of the Church, had ordained his certain Parliament to be held at his city of *Westminster* on the 17th day of *March* then next following, and there to consult and treat with the prelates, nobles and peers of his said kingdom, the same Lord the King commanded and firmly enjoined the then sheriff of *Somerset*, that proclamation being made in his next county-court to be held after the receipt of that writ of the day and place aforesaid, two knights girded with swords the more fit and discreet of the county aforesaid, and of every city of that county two citizens, and of every borough two burgesses of the more discreet and sufficient, by those who should be at such proclamation, according to the form of the statute thereof made and provided, to be elected, and the names of the same knights, citizens and burgesses so to be elected, in certain indentures between the said sheriff and those who should be at such election thereof to be made, altho' such elected should be present or absent, to be inserted, and them at the day and place aforesaid to come should cause, so that the same knights full and sufficient power for themselves and the commonalty of that county, and the said citizens and burgesses for themselves and the commonalty of the cities and boroughs aforesaid, severally from them might have to do and consent to those things which then and there by the common council of his said kingdom with the favour of God should happen to be ordained on the affairs aforesaid, lest by reason of a hasty election of the knights, citizens or burgesses aforesaid, the said affairs should in any wise remain undone; but the said Lord the King commanded, that he the said sheriff or any other sheriff of his said kingdom should not in any wise be elected; and that the said election made in his full county he should distinctly and openly, under his seal and the seal of those who should be at that election, without delay certify to the said Lord the King in his Chancery at the said day and place, sending to the same Lord the King the other part of the indenture aforesaid sewed to that writ, as by the same writ now remaining in the court of Chancery of the said Lord the King at *Westminster* aforesaid more fully appears: Which said writ afterwards, to wit, the 26th day of *January* in the 1st year of the reign of the said Lord the now King above said, at *Iwelchefer* aforesaid in the said county of *Somerset*, was delivered to one *John Trevillian*,
Error in the Exchequer on a judgment in debt on 7 & 8 W. 3. c. 25. §. 6. against the returning officer for refusing a copy of the poll.

Delivered to the sheriff, who made his precept to the bailiff for the electing bur-
gesses. *Trevillian*, Esq; being then sheriff of the same county of *Somerset*, to be executed in form of law; by virtue of which said writ the same sheriff afterwards, to wit, the said 26th day of *January* in the 1st year abovesaid, there made his certain precept in writing, sealed with the seal of his office of sheriff, directed to the bailiff of the said borough of *Ivelchester* in the county abovesaid, of and for the election within that borough of two burgesses of the same borough according to the form and effect of the writ abovesaid; which said precept afterwards, to wit, on the said 26th day of *January* in the 1st year abovesaid at *Ivelchester* abovesaid, was delivered to the said *Thomas Smith*, being then bailiff of the borough of *Ivelchester* abovesaid, (to which said bailiff the execution of the said precept belonged) in form of law to be executed; by virtue of which said precept afterwards, to wit, the 2d day of *February* in the 1st year of the reign of the Lord the now King, they proceeded to the election of two burgesses for the same borough of *Ivelchester* to come to the same Parliament, according to the form and effect of the writ abovesaid: And thereupon the same *Edward Pbelipps* and *James Bateman*, Knt. *William Bellamy*, Esq; and *John Hopkins*, Esq; were and stood candidates at that election, that out of them two might be chosen to be burgesses of Parliament for the said borough, and very many burgesses of that borough were present at that election, and having votes in that behalf, their votes for the same *Edward Pbelipps* to be one of the said two burgesses for the said borough, and divers burgesses of the said borough at that election being likewise present, their votes for the said *James Bateman* to be another of the said two burgesses of Parliament for that borough, and divers other burgesses of that borough being likewise present, their votes for the said *William Bellamy* and *John Hopkins* to be two of the burgesses of Parliament for that borough, then and there gave and voted; so that for the manifestation of that election a poll of those votes of such election being by some of them required and demanded, was then and there in writing had and taken before the said *Thomas Smith*, then being as abovesaid bailiff of that borough; and he the said *Thomas Smith* the same poll then and there received and had; and after the poll of the votes of, in and for that election taken, had and ended, to wit, on the 10th of *February* in the 1st year abovesaid, at *Ivelchester* abovesaid, the same *Edward Pbelipps* desired the same *Thomas Smith*, then as abovesaid being bailiff of the borough abovesaid, to deliver to the same *Edward Pbelipps* a copy of the poll of the votes at the same election taken; and then and there was ready and offered to pay to the said *Thomas Smith* any reasonable sum of money for the writing thereof that he therefore should require: Nevertheless the said *Thomas*, being as abovesaid bailiff of the borough abovesaid, (to which said bailiff the execution of the precept abovesaid for the election of the burgesses abovesaid did then belong) the duty of his office of bailiff of the same borough in this behalf, and the statute in such case made and provided, not considering, nor the penalty in that statute contained in any wise fearing, did not then or afterwards deliver to the same *Edward Pbelipps* a copy of the poll of the voters of the election abovesaid for the borough abovesaid, but to deliver him the same then and afterwards voluntarily absolutely refused, against the form of the statute in such case made and provided; whereby an action accrued to the same *Edward Pbelipps* to demand and have of the said *Thomas Smith* the said 500 *l.* Nevertheless the said *Thomas Smith*, altho' often required, the said 500 *l.* to the same *Edward Pbelipps* hath not yet paid, but hath hitherto denied, and yet doth deny to pay him the same; whereby he says that he is prejudiced, and hath damage to the value of 40 *l.* And therefore he produces the suit, &c.

Impar lance. And now on this day, to wit, *Friday* next after the morrow of the Holy *Trinity*, until which day the said *Thomas* had leave to imparl to the bill abovesaid and then to answer, &c. before the Lord the King at *Westminster* comes as well the said *Edward* by his attorney abovesaid, as the said *Thomas* by *James Long* his attorney: And the same *Thomas* defends the force and injury when, &c. and says that he doth not owe to the said *Edward* the said 500 *l.* or any penny thereof, in manner and form as the said *Edward* hath above against him declared: And of this he puts himself on the country: And the said *Edward* like-
Nil debet. wife, &c. Therefore let a jury thereon come before the Lord the King at *Westminster* on
Venire award- *Wednesday* next after three weeks of the Holy *Trinity*; and who neither, &c. to recognize, ed. &c. because as well, &c. The same day is given to the parties abovesaid there, &c. On which day before the Lord the King at *Westminster* come the parties abovesaid by their attornies
Not returned. abovesaid; and the sheriff hath not returned thereof the writ: Therefore as before let a jury thereon come before the Lord the King at *Westminster* on *Wednesday* next after 15 days of *St. Martin*; and who neither, &c. to recognize, &c. because as well, &c. The same day is given to the parties abovesaid there, &c. On which day before the Lord the King at *Westminster* come the parties abovesaid by their attornies abovesaid; and the sheriff hath not returned thereof
Another a-
warded.

thereof the writ: Therefore as before let a jury thereon come before the Lord the King at *Westminster* on *Tuesday* next after the Octave of the Blessed Virgin *Mary*; and who neither, &c. to recognize, &c. because as well, &c. The same day is given to the parties aforesaid there, &c. Afterwards the process thereof between the parties aforesaid in the plea aforesaid being continued, by the jury thereof between them being respited before the King at *Westminster* until *Wednesday* next after 15 days of *Easter* then next following, unless the justices of the Lord the King assigned to take assises in the county aforesaid shall first come on *Monday* the 18th day of *March* at the castle of *Taunton* in the county aforesaid, by the form of the statute, &c. for want of jurors, &c. On which *Wednesday* next after fifteen days of *Easter*, before the Lord the King at *Westminster* comes the said *Edward* by his attorney aforesaid; and the said justices of the said Lord the King of assise before whom, &c. have sent here their record before them had in these words: Afterwards the day and year within contained, before *Robert Price*, Esq; one of the barons of the Exchequer of the Lord the King, and *Robert Eyre*, Esq; one of the justices of the Lord the King assigned to hold pleas before the King himself, justices of the said Lord the King assigned to take assises in the county of *Somerset* by the form of the statute, &c. comes as well the within named *Edward Pheipps*, Esq; as the within written *Thomas Smith*, by their attornies within contained: And the jurors of the jury whereof mention is within made being called, some of them, to wit, *Richard Chaffey* and *Richard Chin*, come, and on that jury are sworn, and because the rest of the jurors of that jury have not appeared, therefore others of the by-standers by the sheriff of the county aforesaid hereto elected, at the request of the said *Edward Pheipps*, and by the command of the justices aforesaid, are added a-new, whose names are annexed to the panel within written according to the form of the statute in such case made and provided; and the jurors so added a-new, to wit, *James Slape*, *William Exton*, *John Stone*, *James Chaffey*, *Lawrence Dare*, *Hugh Perry*, *Nicholas Hartnell*, *Richard Locke*, *John Dare* and *Henry Thorne*, being called likewise come, who to say the truth of the within contained, together with the jurors aforesaid hereto first impanelled and sworn, being elected, tried and sworn, say on their oath, that the said *Thomas Smith* owes the said *Edward Pheipps* the within mentioned 500 *l.* and every penny thereof, in manner and form as the said *Edward Pheipps* hath within against him declared; and they assess the damage of the said *Edward Pheipps* by reason of the detention of the debt within written, besides his costs and charges by him about his suit in this behalf expended, to 2 *d.* and for those costs and charges to 40 *s.* Therefore it is considered, that the said *Edward Pheipps* recover against the said *Thomas Smith* his debt aforesaid, and the damages aforesaid by the jury aforesaid in form aforesaid assessed, as also 18 *l.* for his costs and charges aforesaid to the same *Edward Pheipps* by the court of the said Lord the King now here with his assent of increase adjudged, which said damages in the whole amount to 20 *l.* and 2 *d.* And the said *Thomas Smith* in mercy, &c.

Pheipps and Smith.

AND the said *Thomas* by *Daniel Russel* his attorney comes here into court and says, that in the record and proceedings aforesaid, as also in the rendition of the judgment aforesaid there is manifest error, in this, to wit, that by the record and proceedings aforesaid it appears, that the said *Edward* by *Henry Gandy* his attorney appeared, when in truth and in fact the same *Henry Gandy* had no warrant of record filed to appear for the same *Edward* against the said *Thomas Smith* bailiff of the borough of *Ipslebecher*, in the plea aforesaid: And the same *Thomas* farther says, that there is error in this, to wit, that no such writ to cause to come 12, &c. between the parties aforesaid in the plea aforesaid, in the same record mentioned, in the said court of the Lord the King before the King himself is filed of record, as by that record above is supposed: There is error also in this, to wit, that no such writ to distrain the jurors between the parties aforesaid in the plea aforesaid, in the same record mentioned, in the said court of the said Lord the King before the King himself is filed of record: There is error also in this, to wit, that there is no bill between the parties aforesaid in the same record mentioned in the court of the Lord the King before the King himself filed, to warrant the declaration and judgment aforesaid: And the same *Thomas* farther says, that in the record and proceedings aforesaid, and also in the rendition of the judgment aforesaid, there is manifest error, in this, to wit, that by the record aforesaid it appears, that the judgment aforesaid in form aforesaid given, was given for the said *Edward* against the said *Thomas*, when by the law of the land of this kingdom, that judgment ought to have been given for the said *Thomas* against him the said *Edward*; therefore in that likewise there is manifest error: And he prays several writs of *certiorari*, &c. and they are granted him, &c.

U u u

George

Error assigned in the Exchequer chamber.

No warrant of attorney.

No venire.

No distringas.

No bill filed.

General error.

Cartiorari to the chief justice of the K. B. to certify the warrant of attorney, *venire*, *distringas* and bill. Salk. 781.

George by the grace of God, &c. To our trusty and well beloved Thomas Lord Parker, baron of Macclesfield, our chief justice assigned to hold pleas in our court before us, greeting: Whereas in the record and proceedings, and also in the rendition of the judgment of a plea which was in our court before us by bill between Edward Phelippi, Esq; and Thomas Smith, bailiff of the borough of *Welchester* in the county of *Somerset*, of a certain debt which the same Edward demanded of the said Thomas, as it is said, a manifest error hath happened, to the great damage of him the said Thomas, as by his complaint we have understood, the record and proceedings of which said judgment before our justices of the Common Bench and the Barons of our Exchequer who are of the degree of the coif, to correct the errors in the same, according to the form of the statute of the 27th year of the reign of the Lady Elizabeth, late Queen of England, thereof made and provided, into our court of our Exchequer chamber aforesaid we have caused to be brought; and the said Thomas in the same court of Exchequer chamber appearing hath said, that where by the record aforesaid before the same justices and barons transmitted it appears, that the said Edward constituted one Henry Gandy his attorney against the said Thomas of Easter term in the 1st year of our reign, yet the said Henry Gandy had no warrant of attorney of record filed to appear for the same Edward in the plea aforesaid; and where by the record aforesaid so as aforesaid transmitted it appears, that the said Edward in the same Easter term in the first year of our reign aforesaid exhibited into our said court his bill against the said Thomas in the plea aforesaid, yet there is not any such bill of record filed with continuances thereof to warrant the declaration and judgment aforesaid; and the said Thomas farther said, that no such writ to cause to come 12, &c. between the parties aforesaid in the plea aforesaid in our said court before us is filed of record, as by the record aforesaid above is supposed; and also that no such writ to distrain the jurors between the parties aforesaid in the plea aforesaid in our said court before us of record is filed, as by the record aforesaid above is supposed; and we being willing to be certified of the premisses aforesaid in this behalf, command you, that searching the rolls and other memorandums of the warrants of attorney of the county of Somerset of the said Easter term in the first year of our reign aforesaid, and of Trinity term in the 2d year of our reign, remaining in your custody of record; and also searching the files of bills of the same Easter term in the 1st year aforesaid, also remaining in your custody of record; and also searching our writs of *venire facias* 12, &c. to the sheriff of the county of Somerset directed, in our same court of Trinity term in the 2d year of our reign, and of Michaelmas term and Hillary term in the 3d year of our reign, being in your custody of record; and also searching our writs of *distringas juratores* to the sheriff of our county of Somerset directed, in our same court of Easter term in the 3d year aforesaid, in your custody of record likewise being, what of the warrant of attorney aforesaid, and of the bill and continuances thereon indorsed, and also what of the said several writs between the parties aforesaid in the plea aforesaid you shall find, as fully and intirely as they remain in your custody, to our justices of the Common Bench and the barons of our Exchequer without delay into our court of Exchequer chamber aforesaid you certify, together with this writ. Witness Peter King, Knt. at Westminster 11th day of February in the 4th year of our reign.

The answer of Thomas Lord Parker, Baron of Macclesfield, the chief justice within written:

Searching the rolls and other memorandums of the warrants of attorney of the county of Somerset of Easter term in the first year of the reign of the Lord the King within written, and of Trinity term in the second year of the reign of the said Lord the King, in my custody filed of record, I find no warrant of attorney of the same term in the first year aforesaid for the within written Edward in the plea within mentioned filed of record; but I find a certain warrant of attorney for the same Edward of Trinity term in the 2d year aforesaid in my custody filed of record; searching also the files of bills of the same Easter term in the 1st year aforesaid, in my custody of record filed, I find there a certain bill between the parties within mentioned in the plea aforesaid of the same term without any continuance; and also searching the writ of *venire facias* 12, &c. of Trinity term in the 2d year within written, and of Michaelmas term and Hillary term in the 3d year within written, in my custody of record filed, I find no writs of *venire facias* 12, &c. of Trinity term in the 2d year within written, nor of Michaelmas term in the 3d year aforesaid, between the parties aforesaid in the plea aforesaid; but I find a certain writ of *venire facias* 12, &c. to the sheriff of the county of Somerset directed, between the parties aforesaid in the plea aforesaid of Hillary term in the 3d year within written in my custody of record filed; searching also the writs of *distringas juratores* of Easter term in the 3d year within written, in my

my custody filed of record, I there find a certain writ of *disfranchisament*, between the parties aforesaid in the plea aforesaid of the same term, in my custody filed of record; the tenor of which said warrant of attorney, bill and writs aforesaid, follow in a certain schedule to this writ annexed: And this I certify to the justices of the said Lord the King of the Common Bench and the barons of the Exchequer within written, as I am within commanded.

Parker.

Somerset, to wit. **E**dward Philipps, Esq; complains of Thomas Smith, bailiff of the borough of Ivelchester in the county aforesaid, in the custody of the marshal, ^{The bill certified.} *Et c.* (so recite the declaration so) whereby he says that he is prejudiced, and hath damage to the value of 40 l. And therefore he produces the suit, *Et c.*

Gandy for the plaintiff, { Pledges to prosecute, } John Doe,
Long for the defendant. { Richard Roe.

Hill. 3d of King Geo.

GEORGE, *Et c.* To the sheriff of Somerset, greeting: We command you that you And the cause to come before us at Westminster on Tuesday next after the Octave of the Purification of the Blessed Virgin Mary twelve free and lawful men of the neighbourhood of Ivelchester, each of whom hath 10 l. of land, (and so on so) the dispute thereon is, have put themselves on that jury, and have there the names of the jurors and this writ. Witness Thomas Lord Parker, baron of Macclesfield, at Westminster 23d day of January in the third year of our reign.

Holt. Veneris.

The execution of this writ appears in a certain panel to this writ annexed,

Ret.

Joseph Browne, Esq; sheriff.

Somerset, to wit. **T**HE names of the jurors between Edward Philipps, Esq; plaintiff, and Thomas Smith defendant, in a plea of debt.

Thomas Cole of Kingstone, William Knight of the same, James Hine of Bishopscull, (and And panel. so on to the end of the panel) each of the jurors aforesaid by himself severally is attached by pledges, John Doe and Richard Roe.

James Browne, Esq; sheriff.

Easter 3d of King Geo.

GEORGE, *Et c.* Somerset, greeting: We command you that you distrain Thomas Cole of And Kingstone, William Knight of the same, (and so on so) come to make that jury between the parties aforesaid in the plea aforesaid, and to hear thereof their judgment for their former default, and have there then this writ. Witness Thomas Lord Parker, baron of Macclesfield, at Westminster 12th day of February in the third year of our reign.

Holt. Veneris.

The execution of this writ appears in a certain panel to this writ annexed,

Ret.

Joseph Browne, Esq; sheriff.

Somerset.

And panel. *Somerset*, to wit. **T**HE names of the jurors between *Edward Phelipps*, Esq; plaintiff, and *Thomas Smith*, defendant, in a plea of debt.

Thomas Cole of Kingstone.

William Knight of the same, (and so on to) each of the jurors aforesaid by himself severally is attached by pledges, *John Doe* and *Richard Roe*.

Joseph Browne, Esq; sheriff.

The names of the jurors added anew.

James Slape,
William Eyton,
John Stone,
James Chaffey,

Lawrence Dare,
Hugh Perry,
Nicholas Hartnell,
Richard Locke, sworn.

Trin. 2d of King Geo.

And warrant *Somerset*, to wit. **E***Edward Phelipps*, Esq; puts in his place *Henry Gandy* his attorney against *Thomas Smith*, bailiff of the borough of *Iwelcbester*, in a plea of debt.

Phelipps and *Smith*.

Rule granted by the K. B. to amend the record in what had been assigned for error.

Monday in the morrow of *All Souls* is farther given to the plaintiff in error to shew cause why the record and proceedings here in court between the parties may not be amended, in this, to wit, first by inserting the letters (rr) in the word *buough* in the warrant of attorney of the said plaintiff, and the word *buough* made *burrough*; secondly, by inserting the word (sheriff) before the word *Somerset* in the writ of *distringas*; thirdly, by changing the *teste* of the writ of *venire facias*, so that the *teste* be made 28th day of *November* for 23d day of *January*, or that a continuance of the writ of *venire facias* may be entred on the record from *Wednesday* next after 15 days of *St. Martin* to *Wednesday* next after the *Octave* of *St. Hillary*; fourthly, by entring several continuances on the bill of the said plaintiff *Phelipps* in this cause from *Easter* term in the first year of the reign of the Lord the now King, of which said term that bill was filed, until *Friday* next after the morrow of the *Holy Trinity* in the second year of the reign of the said Lord the now King, and that the record of the judgment aforesaid be amended by the entry on that bill. On the motion of *Mr. serjeant Comyns*.

By the court.

After these amendments were made, the defendant in error sued out the *certiorari* to satisfy the justices and barons the record was not erroneous. 27 El. c. 8.

GEORGE, &c. To our trusty and well beloved *John Pratt*, Knt. our chief justice assigned to hold pleas in our court before us, greeting: Whereas in the record and proceedings, and also in the rendition of the judgment of a plea which was in our court before us by bill between *Edward Phelipps*, Esq; and *Thomas Smith*, bailiff of the borough of *Iwelcbester* in the county of *Somerset*, for a certain debt which the said *Edward* demanded of the said *Thomas*, a manifest error hath happened, to the great damage of the said *Thomas*, as by his complaint we have understood; the record and proceedings of which said judgment we have caused to be brought before our justices of the Common Bench and our barons of the Exchequer who are of the degree of the coif, to correct the errors in the same, according to the form of the statute of the 27th year of the reign of the Lady *Elizabeth*, late Queen of *England*, thereof made and provided, into the court of our said Exchequer chamber; and the said *Thomas* in our same court of Exchequer chamber appearing hath alledged, that by the record aforesaid before the same justices and barons sent it appears, that the said *Edward* constituted one *Henry Gandy* his attorney against the said *Thomas* in *Easter* term in the first year of our reign; yet the said *Henry Gandy* had no warrant of attorney filed of record to appear for the same *Edward* in the plea aforesaid; and where by the record aforesaid so as aforesaid sent it appears, that the said *Edward* in the same *Easter* term in the first year of our reign abovesaid exhibited into our said court his bill against the said *Thomas* in the plea aforesaid, yet there is not any such bill filed of record with continuances thereon to warrant the declaration and judgment aforesaid; and the said *Thomas* hath farther alledged, that no such writ of *venire facias* twelve, &c. between the parties aforesaid in the plea aforesaid in our said court before us is filed of record, as by that record is supposed; and also that no such writ of *distringas juratores* between the parties aforesaid in the plea aforesaid in our said court before

before us is filed of record, as by that record above is supposed: We willing to be certified of the premisses aforesaid command you, that the rolls and other memorandums of the warrants of attorney of the county of *Somerset* of the said *Easter* term in the first year of our reign aforesaid, and of *Trinity* term in the second year of our reign, remaining in your custody of record, being searched; and also the files of bills of the same *Easter* term in the first year aforesaid, remaining likewise in your custody of record, being searched; and also our writs of *venire facias* 12, &c. to the sheriff of the county of *Somerset* directed, in our same court of *Trinity* term in the second year of our reign, and of *Michaelmas* term and *Hillary* term in the third year of our reign, being in your custody of record, being searched; and also our writs of *distingas jur'* to the sheriff of our county of *Somerset* directed, in the same court of *Easter* term in the third year of our reign aforesaid, being likewise in your custody of record, being searched, what of the warrant of attorney aforesaid, and of the bill and continuances thereon indorsed, and also what of the said several writs between the parties aforesaid in the plea aforesaid you shall find, as fully and intirely as they remain in your custody, to our said justices of the Common Bench and the barons of our Exchequer without delay into our court of Exchequer chamber aforesaid you certify, together with this writ. Witness, &c.

The answer of John Pratt, Knt. the chief justice within written:

The rolls and other memorandums of the warrants of attorney of the county of *Somerset* of *Easter* term in the first year of the reign of the Lord the King within written, and of *Trinity* term in the second year of the reign of the said Lord the King, in my custody filed of record, being searched, I find no warrant of attorney of the same term in the first year aforesaid for the within written *Edward* in the plea within mentioned filed of record; but I find a certain warrant of attorney for the same *Edward* of *Trinity* term in the second year aforesaid in the plea within mentioned in my custody filed of record; the files also of the bills of the same *Easter* term in the first year aforesaid, in my custody filed of record being searched, I there find a certain bill between the parties within mentioned in the plea aforesaid of the same *Easter* term, with a continuance thereon from the said *Easter* term to the said *Trinity* term in the second year of the reign of the said Lord the now King, the writs also of *venire facias* 12, &c. of *Trinity* term in the second year of the King aforesaid, and of *Michaelmas* term and *Hillary* term in the third year aforesaid, in my custody filed of record, being searched, I find no writs of *venire facias* 12, &c. to the sheriff of the county of *Somerset* directed, between the parties aforesaid in the plea aforesaid of the same *Trinity* term in the second year aforesaid, nor of the same *Michaelmas* term in the third year within written, in my custody filed of record; but I find a certain writ of *venire facias* 12, &c. to the sheriff of the county of *Somerset* directed, between the parties aforesaid in the plea aforesaid, of the said *Hillary* term in the third year within written, in my custody filed of record; the writs also of *distingas jur'* of *Easter* term in the third year within written, in my custody filed of record, being searched, I there find a certain writ of *distingas jur'* between the parties aforesaid in the plea aforesaid of the same term, in my custody filed of record; the tenor of which said warrant of attorney, bill and writs aforesaid, follows in a certain schedule to this writ annexed: And this I certify to the justices of the said Lord the King of the Bench and the barons of the Exchequer within written, as I am within commanded.

J. Pratt.

The defendant in this bill within contained prays a day of imparlance thereto; and it is granted him, &c. And hereupon a day thereof is given to the parties within written before the Lord the King at *Westminster* until *Friday* next after the morrow of the Holy *Trinity*, to wit, to the said defendant to imparl to the bill aforesaid, and then to answer, &c. On which day before the Lord the King at *Westminster* come the parties aforesaid by their attornies within contained; and the said defendant prays a farther day of imparlance thereto; and it is granted him, &c. And hereupon a farther day thereof is given to the parties aforesaid before the Lord the King at *Westminster* until *Monday* next after three weeks of *St. Michael*, to wit, to the said defendant to imparl to the bill aforesaid, and then to answer, &c. On which day before the Lord the King at *Westminster* come the parties aforesaid by their attornies within contained; and the said defendant prays a farther day of imparlance thereto; and it is granted him, &c. And hereupon a farther day thereof is given to the parties aforesaid before the Lord the King at *Westminster* until *Monday* next after the *Octave* of *St. Hillary*, to wit, to the said defendant to imparl to the bill aforesaid, and then to answer, &c. On which day before the Lord the King at *Westminster* come the parties aforesaid by their attornies within contained; and the said defendant prays a farther day of imparlance thereto; and it is granted him, &c. And hereupon a farther day thereof is given

X x x

given to the parties aforesaid before the Lord the King at *Westminster* until *Wednesday* next after 15 days of *Easter*, to wit, to the said defendant to imparl to the bill aforesaid, and then to answer, &c. On which day before the Lord the King at *Westminster* come the parties aforesaid by their attornies within contained; and the said defendant prays a farther day of imparlance thereto; and it is granted him, &c. And hereupon a farther day thereof is given to the parties aforesaid before the Lord the King at *Westminster* until *Friday* next after the morrow of the Holy *Trinity*, to wit, to the said defendant to imparl to the bill aforesaid, and then to answer, &c.

Hill. 3^d of King Geo.

The venire.

GEORGE, &c. To the sheriff of *Somerset*, greeting: We command you that you cause to come before us at *Westminster* on *Tuesday* next after the O^{ctave} of the Purification of the Blessed Virgin *Mary* twelve free and lawful men of the neighbourhood of *Iwelchester*, each of whom hath ten pounds of land, tenements or rent by the year at least, by whom the truth of the matter may be the better known, and who are in no wise related to *Edward Phelipps*, Esq; the plaintiff, nor to *Thomas Smith*, bailiff of the borough of *Iwelchester*, to make a certain jury of the country between the parties aforesaid in a plea of debt, because as well the same *Edward* as the said *Thomas*, between whom the dispute is, have put themselves on that jury; and have there the names of the jurors and this writ. Witness, &c.

Holt. Ventris.

The return of the venire.

The execution of this writ appears in a certain panel hereto annexed,

Joseph Browne, Esq; sheriff.

The names of the jurors between *Edward Phelipps*, Esq; plaintiff, and *Thomas Smith* defendant, in a plea of debt. Then follows the panel to the venire as before.

Then the distringas and panel in hæc verba as amended.

Then the defendant in error pleaded *In nullo est erratum*, as follows:

AND the said *Edward Phelipps* by *John Allen* his attorney comes and says, that there is no error either in the record and proceedings aforesaid, or in the rendition of the judgment aforesaid; and prays that the court of the Lord the King here may proceed to the examination as well of the record and proceedings aforesaid, as of the matters aforesaid for error assigned, and that the judgment aforesaid may be in all things affirmed: But because the court of the said Lord the King here will advise themselves of and upon the premisses before they give judgment thereon, day therefore is given to the parties aforesaid until *Wednesday* 11th day of *February* next to hear their judgment thereon, because the court of the Lord the King here thereof not yet, &c.

And thereupon the judgment was affirmed.

The entry of the record transmitted into the Exchequer chamber.

Errors assigned.

In nullo est erratum joined.

Afterwards, to wit, on *Saturday* the 11th day of *May* in the third year of the reign of the said Lord the King, the transcript of the record and proceedings aforesaid between the parties aforesaid in the plea aforesaid, with all things touching them, by pretence of a certain writ of the said Lord to correct error, by the said *Thomas Smith* in the premisses before the justices of the said Lord the King of the Common Bench and the barons of the Exchequer of the said Lord the King of the degree of the coif, into the Exchequer chamber, according to the form of the statute made in the Parliament of the Lady *Elizabeth*, late Queen of *England*, &c. held at *Westminster* on the 23d day of *November* in the 27th year of her reign, from the court of the said Lord the King here before the King himself were transmitted; and the said *Thomas* in the same court of Exchequer chamber aforesaid appearing hath assigned divers matters for error in the record and proceedings aforesaid for the reversing and annulling of the judgment aforesaid, to which the said *Edward Phelipps* in the same court of Exchequer chamber aforesaid likewise appearing hath pleaded, that there is no error either in the record and proceedings aforesaid, or in the rendition of the judgment aforesaid; and afterwards, to wit, on *Wednesday* the 26th day of *November* in the 5th year of the reign of the said Lord the now King, the record and proceedings aforesaid, and the judgment on the same given, and the said causes

causes for error by the said *Thomas* above alledged and assigned, being seen, and by the court of Exchequer chamber aforesaid diligently examined and more fully understood, it seemed to the same court of Exchequer chamber, that the record aforesaid was in nothing vitious or defective, and that there was no error in the said record: Therefore it was then and there considered by the same court of Exchequer chamber, that the judgment aforesaid should be in all things affirmed, and should stand in its full force and effect, the said causes for error above assigned and alledged in any wise notwithstanding; and it was then and there farther considered by the same court, that the said *Edward* should recover against the said *Thomas Smith* 30 l. to the same *Edward Pbelipps* with his assent by the same court of Exchequer chamber there adjudged, according to the form of the statute thereof made and provided, for his damages, costs and charges, which he had by reason of the delay of the execution of the judgment aforesaid on pretence of prosecuting the said writ of error; and thereupon the record aforesaid, as also the proceedings of the justices of the C. B. aforesaid and the barons of the Exchequer aforesaid before them in the premisses had, by the same justices and barons before the Lord the King wheresoever, &c. were then remitted, according to the form of the statute, &c. and in the same court of the said Lord the King here before the King himself now remain, &c.

Afterwards, to wit, on the 15th day of *January* in the 5th year of the reign of the Lord *George* now King of *Great Britain*, &c. before the said Lord the King and the Peers of this realm in the present Parliament at *Westminster* in the county of *Middlesex* assembled, comes the said *Thomas Smith* in his proper person and immediately says, that in the record and proceedings aforesaid, and also in the rendition of the judgment aforesaid thereon in the said court of Exchequer chamber of the said Lord the King given, there is manifest error, in this, to wit, that the judgment aforesaid in the said court of Exchequer chamber given was given for the said *Edward Pbelipps*, for the affirmance of the judgment aforesaid in the said court of the Lord the King before the King himself so as aforesaid given, for the damages, costs and charges of the said *Edward* by reason of the delay of the execution of the same judgment on pretence of prosecuting the said writ of error thereon in the said court of Exchequer chamber by the said *Thomas* prosecuted, when by the law of *England* the judgment in the said court of Exchequer chamber ought to have been given for the said *Thomas*, for the reversal of the said judgment in the said court of the said Lord the King before the King himself so as aforesaid given; therefore in that it is manifestly erroneous.

Pbi. York.

And the said *Edward Pbelipps*, Esq; in his proper person before the said Lord the King and the Peers in the present Parliament of *Great Britain* at *Westminster* in the county of *Middlesex* assembled likewise comes and says, that there is no error either in the record and proceedings aforesaid, or in the rendition of the judgment aforesaid, and prays, that the said Lord the King and the Peers in the present Parliament of *Great Britain* at *Westminster* in the county of *Middlesex* aforesaid assembled now here may proceed to the examination as well of the record and proceedings aforesaid, as of the matters aforesaid above for error assigned, and that the judgment aforesaid may be in all things affirmed: And because the court of the said Lord the King here before the King himself in his Parliament are not yet advised to give their judgment of and upon the premisses, day therefore is given to the parties aforesaid before the said Lord the King in his Parliament until *Friday*, to wit, the 23d day of *January* next ensuing, at *Westminster* in the county of *Middlesex* aforesaid, to hear their judgment of and upon the premisses, because the court of the said Lord the King here in his Parliament thereof not yet, &c.

*J. Comyns,
Tbo. Pengelly.*

Note; In this case the writ of error was in the rendition of the judgment of a plea, &c. between *Edward Pbelipps*, Esq; and *Thomas Smith*, Gent. of a certain debt, &c. And the record certified was between *Edward Pbelipps*, Esq; and *Thomas Smith*, bailiff of the borough of *Ivelchester* in the county of *Somerset*.

Which variance the Lords would not regard, but ordered it to come on upon the merits: And accordingly it was argued by counsel, and the judgment affirmed in Parliament, with 5 l. costs.

Wednesday

Wednesday 22 January 1689.

Order of the house of Lords on a petition. Raym. Rep. 381 to 384. For the plaintiff in error to assign his error in four days, otherwise the transcript remitted.

UPON reading the petition of *John Wright*, shewing, That he having obtained a judgment against one *Daniel Van Mildrett* in *Michaelmas* term last, and that the said *Daniel Van Mildrett* for delay hath brought his writ of error into this house the 16th of *December* last, but hath not assigned errors thereon, and praying that the said writ of error may be remitted, to the end he may have execution thereupon: It is ordered by the Lords Spiritual and Temporal in Parliament assembled, That the said *Daniel Van Mildrett* be, and is hereby required to assign error thereupon on or before *Saturday* next at ten of the clock in the forenoon, or otherwise the said transcript of the said judgment made on the behalf of the said *John Wright* shall be and is hereby remitted, to the end he may have judgment thereupon as if no such writ of error had been brought into this house.

Jo. Browne, Cl^r Parl^r.

To the Right Honourable the Lords Spiritual and Temporal in Parliament assembled.

The humble petition of *Edward Phelipps*, Esq; defendant in a writ of error in Parliament, wherein *Thomas Smith* is plaintiff,

Sheweth,

Petition for the cause to be heard at the bar of the house.

THAT your petitioner having obtained a judgment after verdict in the court of King's Bench against the said *Smith*, in an action of debt for 500*l.* which in *Michaelmas* term last, on a writ of error brought by the said *Smith* in the Exchequer chamber, was unanimously affirmed by all the judges of the court of Common Pleas and barons of the Exchequer: That the said *Smith* hath lately brought a writ of error returnable in Parliament, in which the plaintiff in error hath named himself by a different addition from what he is named in the said action, with an intent thereby, as your petitioner is advised, to delay your petitioner in a most unreasonable and unusual manner from the recovery of his just debt.

That the plaintiff in error hath nevertheless assigned his errors, and your petitioner hath joined in error.

Your petitioner most humbly prays your Lordships to appoint such a day for taking the premisses into your consideration and arguing the said errors, as to your Lordships great wisdom shall seem meet.

And your petitioner shall pray, &c.

E. Phelipps.

Wednesday 28 January 1718.

The order thereupon. Raym. 381.

UPON reading the petition of *Edward Phelipps*, Esq; defendant in a writ of error depending in this house, wherein *Thomas Smith* is plaintiff, setting forth, That the petitioner having obtained a judgment after verdict in the court of King's Bench against the said *Smith* in an action of debt, which in *Michaelmas* term last on a writ of error brought by the said *Smith* in the Exchequer chamber was unanimously affirmed; that the said *Smith* having brought a writ of error returnable in Parliament, in which the plaintiff in error hath named himself by a different addition from what he is named in the said action, with an intent to delay the petitioner from the recovery of his just debt; that the plaintiff hath nevertheless assigned his errors, and the petitioner hath joined therein, and praying that a day may be appointed for taking the premisses into consideration and arguing the said errors as to this house shall seem meet: It is ordered by the Lords Spiritual and

and Temporal in Parliament assembled, that the plaintiff in error be served with a copy of the said petition and this order; and that this house will hear counsel thereupon on Thursday the fifth day of February next at eleven a-clock.

The case of the defendant in error.

Edward Pbelipps, the now defendant in the writ of error, brought an action of debt Case of defendant in error. in the court of King's Bench against the now plaintiff *Thomas Smith*, bailiff of the borough of *Iwelcheſter*, for refusing to deliver to the said *Edward Pbelipps* a copy of the poll taken at an election for members of Parliament for the said borough, at which election the said *Edward Pbelipps* was a candidate; and the said action was founded on the statute of the 7th and 8th of King *William III. cap. 25. ſect. 6.* by which statute it is enacted, that every bailiff and other officer, to whom the execution of any writ or precept shall belong for electing of members to serve in Parliament, shall forthwith deliver to such person or persons, as shall desire the same, a copy of the poll taken at such election, paying only a reasonable charge for writing the same: And that every bailiff and other officer, to whom the execution of any writ or precept for electing of members to serve in Parliament doth belong, for every wilful offence contrary to the said act shall forfeit to every party so aggrieved the sum of 500*l.* to be recovered by him or them, his or their executors or administrators, together with full costs of suit.

The declaration sets forth, that the town of *Iwelcheſter* is an antient borough; and that the burgesſes and inhabitants of the said borough, time out of mind, have choſen two burgesſes to serve in Parliament for the said borough: That the 17th of *January 1* of King *Geo.* a writ iſſued out of Chancery, directed to the ſheriff of *Somerſet*, commanding him to cauſe to be choſen two knights for the said county, and two burgesſes for every borough within the ſame county, to ſerve in the Parliament to be holden at *Weſtminſter* on the 17th day of *March* then next following; which writ 26th of *January* following was delivered to *John Trevillian*, Eſq; then ſheriff for the ſame county, who the ſame day made his precept to the ſaid *Thomas Smith*, then bailiff of the ſaid borough of *Iwelcheſter* (to whom the execution of the ſaid precept of right did belong) for the election of two burgesſes to ſerve in Parliament for the ſaid borough according to the ſaid writ: That by virtue thereof on the ſecond day of *February* following it was proceeded to election for the ſaid borough, when *Sir James Bateman*, *William Bellamy*, *John Hopkins*, and the ſaid *Edward Pbelipps*, Eſquires, ſtood candidates, and ſeveral electors voted for *Sir James Bateman* and the ſaid *Edward Pbelipps*, Eſq; and ſeveral others for the other two candidates, and a poll being then demanded was had and taken in writing by the ſaid bailiff: That on the 10th day of *February* following the candidate *Mr. Pbelipps* required the ſaid bailiff to deliver him a copy of the ſaid poll, and was ready and offered to pay him any reaſonable ſum of money for the writing thereof as he ſhould require: But the ſaid bailiff did not deliver the ſame, but contrary to his duty, and the ſaid act of Parliament, voluntarily and utterly reſuſed to deliver to him a copy of ſuch poll, whereby the plaintiff in the ſaid action was intitled to demand and recover the ſaid penalty of 500*l.*

Upon the general iſſue pleaded, this action was tried at the *Lent* aſſiſes holden for the county of *Somerſet* 2 of King *Geo.* before *Mr. Juſtice Eyre*, by a ſubſtantial jury, and after a very long trial upon full evidence, a verdict was given for *Mr. Pbelipps* to the ſatisfaction of the judge who tried the cauſe; and it appeared that the ſaid *Thomas Smith* (who is a practiſing attorney) behaved himſelf very arbitrarily, and that his whole proceeding as bailiff, and particularly this for which the action was brought, was in open defiance and contempt of the law. Upon this verdict the court of King's Bench gave judgment for *Edward Pbelipps*, the plaintiff in the action, and the defendant *Thomas Smith* brought a writ of error in the Exchequer chamber, where the ſaid judgment was affirmed unaniſmouſly by all the judges of the Common Pleas and barons of the Exchequer.

That this action being founded on a law made to remedy many great abuſes committed by officers concerned in elections for members to ſerve in Parliament, which had been long complained of, and by which, if a remedy had not been timely applied,

applied, the very constitution of Parliaments might in a great measure have been subverted and the fact being verified by verdict, and the ground and nature of the action, as well as the form and manner of the proceeding, having been approved of by the judgment of all the judges of *England*,

This defendant in the writ of error humbly prays, that the said judgment in the Exchequer chamber may be affirmed by the judgment of this honourable house, with costs.

Tho. Lutwyche,
J. Comyns.

Order for the
affirmance of
the judgment,
and remission
of the record.

WHEREAS, by virtue of his Majesty's writ of error returnable into the house of Peers in Parliament assembled, a record of the court of King's Bench was brought into this house on the sixth day of *January* last past, with the transcript thereof, wherein judgment is entred for *Edward Pbelipps*, Esq; against *Thomas Smith*, bailiff of the borough of *Ivelchester* in the county of *Somerset*; upon which errors were assigned, and issue joined, and this day counsel heard at the bar to argue the errors thereupon: It is ordered by the Lords Spiritual and Temporal in Parliament assembled, That the said judgment given for the said *Edward Pbelipps* against the said *Thomas Smith* be and is hereby affirmed; and that the said *Edward Pbelipps* do recover 5*l.* for his costs occasioned by the delay of execution of the said judgment by pretence of the said writ of error, according to the statute in that case made and provided; and that the transcript of the said record, wherein judgment is entred as aforesaid, be remitted.

The entry of
the affirmance
in Parliament
which comes
in after the
continuance of
the *In nullo
est errat*, and
is signed by
the clerk of
the Parlia-
ment.

NOT yet, &c. On which day before the same court of Parliament at *Westminster* comes as well the said *Thomas Smith* as the said *Edward Pbelipps* in their proper persons; but because the court of Parliament aforesaid now here are not yet advised to give their judgment of and upon the premisses, day therefore is given as well to the said *Thomas Smith* as to the said *Edward Pbelipps*, before the same court of Parliament, until *Saturday* the 17th day of *March* next ensuing, wheresoever, &c. to hear their judgment thereon, because the court of Parliament aforesaid here thereof not yet, &c. On which day before the same court of Parliament at *Westminster* comes as well the said *Thomas Smith* as the said *Edward Pbelipps* in their proper persons: Whereupon all and singular the premisses being seen, and by the court of Parliament aforesaid now here more fully understood, and as well the record and proceedings aforesaid, and the judgment thereon given, as the said causes and matters by the said *Thomas Smith* above for error assigned, being diligently examined and inspected, and mature deliberation being thereon had, it seems to the court of Parliament aforesaid now here, that there is no error either in the record and proceedings aforesaid, or in the rendition of the judgment aforesaid, or in the affirmance of the same judgment, and that the said record is in no wise vitious or defective: Therefore it is considered by the same court of Parliament aforesaid, that the judgment aforesaid, and also the affirmance of the same judgment, be in all things affirmed, and in their full force and effect stand, the said causes and matters by the said *Thomas Smith* above for error assigned in any wise notwithstanding: And it is farther considered by the same court of Parliament aforesaid now here, that the said *Edward Pbelipps* do recover against the said *Thomas Smith* 5*l.* to the same *Edward* with his assent by the same court of Parliament aforesaid, according to the form of the statute thereof made and provided, adjudged for his damages, costs and charges, which he hath had by reason of the delay of the execution of the judgment aforesaid by pretence of prosecuting of the said writ of error; and thereupon the record aforesaid, as also the proceedings aforesaid in the same court of Parliament in the premisses had, by the same court of Parliament to the court of the said Lord the King before the King himself wheresoever, &c. are remitted, &c.

William Cowper, Cl^r Parl.

Remain,

Remain, &c.

Afterwards, to wit, on the 12th day of *December* in the 5th year of the reign of the Lord the now King, the same Lord the King sent to his trusty and well beloved *John Pratt*, Knt. the chief justice of the same Lord the King assigned to hold pleas before the King himself, his writ close in these words, to wit, *George, &c.* To our trusty and well beloved *John Pratt*, Knt. our chief justice assigned to hold pleas before us greeting: Because in the record and proceedings, and also in the rendition of the judgment of a plea which was in our court before us by bill between *E. Pbelipps*, Esq; and *T. Smith*, Gent. of a certain debt which the same *E.* demanded of the said *T.* which said record and proceedings, by reason of error happening before the justices of the Common Bench and the barons of our Exchequer in our Exchequer chamber aforesaid, we have caused to be brought, and the judgment thereof is affirmed, as it is said, a manifest error hath happened, to the great damage of him the said *Thomas*, as by his complaint we have understood; We willing the error, if any hath been, should be duly corrected and full and speedy justice done to the parties in this behalf, command you, that if judgment thereof be given and affirmed, then the record and proceedings aforesaid, with all things touching them, to us in our present Parliament under your seal distinctly and openly without delay you send, and this writ, that the record and proceedings aforesaid being inspected, we may farther cause to be done therein, with the assent of the Lords Spiritual and Temporal being in the same Parliament, to correct that error what of right and according to the law and custom of *England* shall be to be done. Witness Ourselves at *Westminster* 12th day of *December* in the 5th year of our reign. By virtue of which said writ the same chief justice the record and proceedings of the plea aforesaid, with all things touching them, to the said Lord the King in the present Parliament with his own proper hands produced, according to the command of that writ.

The entry of the affirmance in Parliament on the roll of the judgment in the K. B. to warrant execution.

Afterwards, to wit, 15th day of *January* in the 5th year of the reign of the said Lord the King, before the said Lord the King and the Peers of this realm in the present Parliament at *Westminster* in the county of *Middlesex* assembled comes the said *Thomas Smith* in his proper person and immediately says, that in the record and proceedings aforesaid, and also in the rendition of the judgment aforesaid thereon in the said court of Exchequer chamber of the said Lord the King given, there is manifest error, in this, to wit, that the judgment aforesaid in the said court of Exchequer chamber aforesaid given was given for the said *E. Pbelipps*, for the affirmance of the judgment aforesaid in the said court of the Lord the King before the King himself so as aforesaid given for the damages, costs and charges of the said *E.* by reason of the delay of the execution of the same judgment by pretence of prosecuting the said writ of error thereon in the said court of Exchequer chamber aforesaid, when by the law of *England* the judgment in the said court of Exchequer chamber aforesaid ought to have been given for the said *T.* for the reversal of the said judgment in the said court of the said Lord the King before the King himself so as aforesaid given; therefore in that there is manifest error.

And the said *E. Pbelipps*, Esq; in his proper person before the said Lord the King and the Peers in the present Parliament of *Great Britain* at *Westminster* in the county of *Middlesex* assembled likewise comes and says, that there is no error either in the record and proceedings aforesaid, or in the rendition of the judgment aforesaid, and prays, that the Lord the King and the Peers in the present Parliament of *Great Britain* at *Westminster* in the county of *Middlesex* aforesaid assembled now here may proceed to the examination as well of the record and proceedings aforesaid, as of the matter aforesaid above for error assigned, and that the judgment aforesaid may be in all things affirmed: And because the court of the said Lord the King before the King himself in his Parliament are not yet advised to give their judgment of and upon the premisses, day therefore is given to the parties aforesaid before the said Lord the King in his Parliament until *Wednesday*, to wit, 28th day of *January* next ensuing, wheresoever, &c. to hear their judgment of and upon the premisses, because the court of the said Lord the King here in his Parliament thereof not yet, &c. On which day before the same court of Parliament at *Westminster* aforesaid comes as well the said *T. Smith* as the said *E. Pbelipps* in their proper persons; but because the court of Parliament aforesaid now here are not yet advised to give their judgment of and upon the premisses, day therefore is given as well to the said *T. Smith* as to the said *E. Pbelipps* before the same court of Parliament until *Thursday*, to wit, the 5th day of *February* next ensuing, wheresoever, &c. to hear their judgment thereon, because the court of Parliament aforesaid here thereof not yet, &c. On which day before the same court of Parliament aforesaid at *Westminster* aforesaid comes as well the said *T. Smith* as the said *E. Pbelipps* in their proper persons: Whereupon all and singular the premisses be seen, and by the court of Parliament aforesaid now here more fully understood, and as well the record and proceedings aforesaid and the judgment on the same given, as the said causes and matters by the said *Thomas Smith* above for error assigned, being diligently examined and inspected, and mature deliberation being thereon had, it seems to the court of Parliament aforesaid now here, that there is no error either in the record and proceedings aforesaid, or in the rendition of the judgment aforesaid, or in the affirmance

affirmance of the said judgment, and that the said record is in no wise vicious or defective: Therefore it is considered by the same court of Parliament aforesaid, that the judgment aforesaid, and also the affirmance of the same judgment, be in all things affirmed and remain in their full force and effect, the said causes and matters by the said *Thomas Smith* above for error assigned in any wise notwithstanding: And it is farther considered by the same court of Parliament aforesaid now here, that the said *Edward Pbelipps* do recover against the said *Thomas Smith* 5*l.* to the same *Edward* by his assent by the same court of Parliament aforesaid, according to the form of the statute thereof made and provided, adjudged for his damages, costs and charges, which he hath had by reason of the delay of execution of the judgment aforesaid by pretence of prosecuting the said writ of error; and thereupon the record aforesaid, and also the proceedings aforesaid in the same court of Parliament in the premises had, by the same court of Parliament to the court of the same Lord the King before the King himself, wherefoever, &c. are remitted, &c.

Osgood and Alexander.

Death of one
of the defend-
ants before
the day in
bank assigned
for error.
Salk. 8.

Afterwards, to wit, on *Wednesday* next after 15 days of *Easter* in that same term, before the Lord the King at *Westminster* come the said *John Osgood* and *Nathaniel Rouse* in their proper persons and say, that in the record and proceedings aforesaid, as also in the rendition of the judgment aforesaid, there is manifest error, in this, to wit, that by the record aforesaid it appears, that the judgment aforesaid is given as well against the said *John Woods* as against the said *John Osgood* and *Nathaniel Rouse*, when in truth the said *John Woods* in the plea aforesaid mentioned, before the trial of the issue in the record aforesaid between the parties aforesaid joined, and before the rendition of the judgment aforesaid, to wit, on the 20th day of *July* in the 8th year of the reign of the said Lady the now Queen, at *Horsham* aforesaid in the county of *Sussex* aforesaid died, and so the judgment aforesaid is erroneous and void in law: And the said *John Osgood* and *Nathaniel Rouse* pray, that the judgment aforesaid, for the error aforesaid and others being in the record and proceedings aforesaid, may be revoked, annulled and held as void; and that they the said *John Osgood* and *Nathaniel Rouse* may be restored to all things which they have lost by reason of the judgment aforesaid: And they pray a writ of the Lady the Queen, to warn the said *John Alexander* to be before the Lady the Queen at *Westminster* to hear the record and proceedings aforesaid; and to them it is granted.

Scire fac'
prayed.

Repl. that he
is alive.

And the said *John Alexander* by *John Allen* his attorney comes and says, that by any thing before alledged the judgment aforesaid ought not to be reversed, because he says, that the said *John Woods* in the plea aforesaid mentioned is yet surviving and in full life; without that, that the same *John Woods*, before the trial of the issue aforesaid in the record aforesaid between the parties aforesaid joined, died, in manner and form as the said *John Osgood* and *Nathaniel Rouse* above have alledged: And this he is ready to verify: Wherefore he prays, that the judgment aforesaid may be in all things affirmed, &c.

Rejoinder,
that he died.

And the said *John Osgood* and *Nathaniel Rouse* as before say, that the said *John Woods* died before the trial of the issue aforesaid, in manner and form as the same *John Osgood* and *Nathaniel* above have alledged: And this they pray may be inquired of by the country: And the said *John Alexander* thereof likewise: Therefore the sheriff is commanded, that he cause to come before the Lady the Queen from the day of the Holy *Trinity* in three weeks, wherefoever, &c. 12, &c. by whom, &c. to recognise, &c. because as well, &c. The same day is given to the parties aforesaid, &c.

This issue was tried, and verdict for the plaintiff.

Jodrell against Jennings.

The nisi prius
record on a
writ of error
on a judgment
in dower.

England, to wit. THE Lord the King hath sent to his trusty and well beloved *George Treby*, Knt. his chief justice of the Bench, his writ close in these words, to wit, *William* the Third, &c. To our trusty and well beloved *G. T.* Knt. our chief justice of the Bench, greeting: Because in the record and proceedings, and also in the rendition of the judgment of a plea which was in our court before you and your companions our justices of the Bench, by our writ between *S. J.* widow, who was the wife of *J. J.* and *W. Jennings*, clerk, for this, that the same *Walter* might render to the said *Susanna* her reasonable dower which belongs to her of the freehold which was of the said *John* her late husband, manifest error hath happened, to the great damage of the said *Walter*, as by his complaint we have understood: We willing the error, if any hath been, should be duly corrected, and full and speedy justice done to the said *Walter* in this behalf, command you, that if judgment thereof be given, then the record and proceedings aforesaid, with all things touching them, to us under your seal

seal distinctly and openly you send, and this writ, so that we may have them from the day of *Easter* in five weeks, wheresoever we shall then be in *England*, that the record and proceedings aforesaid being inspected, we may farther cause to be done therein, to correct that error, what of right and according to the law and custom of our kingdom of *England* shall be to be done. Witness Ourselves at *Westminster* 29th day of *April* in the 8th year of our reign.

The answer of George Treby, Knt. the chief justice within named :

The record and proceedings of the plea whereof mention is within made, with all things touching them, before the Lord the King, wheresoever, &c. at the day within contained, send in a certain record to this writ annexed, as I am within commanded.

G. Treby.

Pleas inrolled at Westminster before George Treby, Knt. and his companions, justices of the Lord the King of the Bench of Trinity term in 7th year of the reign of the Lord William the Third, by the grace of God of England, &c. Roll 1227.

Stafford, to wit. *Susanna Jodrell*, widow, who was the wife of *John Jodrell*, yeoman, by *Jonas Slaney* her attorney demands against *Walter Jennings*, clerk, the third part of one messuage, 10 acres of meadow, and 30 acres of pasture with the appurtenances in *Earnfield*, otherwise *Yearnfield*, as the dower of the said *Susanna* of the endowment of the said *John* her late husband, &c.

And the said *Walter* by *John Blackmore* his attorney comes and says, that the said *Susanna* ought not to have dower of the tenements aforesaid with the appurtenances of the endowment of the said *John* her late husband, because he says, that the same *John*, late husband, &c. neither on the day he married the said *Susanna*, nor ever after, was seised of the tenements aforesaid with the appurtenances whereof, &c. of such his estate, so that he could endow the said *Susanna* thereof: And of this he puts himself upon the country, and the said *Susanna* likewise, &c. Therefore the sheriff is commanded, that he cause to come here from the day of the Holy Trinity in three weeks 12, &c. by whom, &c. and who neither, &c. to recognize, &c. On which day the jury between the parties aforesaid in the plea aforesaid was put thereof between them in respite here until this day, to wit, from the day of St. Michael in three weeks then next following, unless the justices of the said Lord the King assigned to take assises in the county aforesaid, by the form of the statute, &c. on Thursday the first day of August next past at *Stafford* in the county aforesaid first come; and now on this day comes as well the said *Susanna* as the said *Walter* by their attorney aforesaid, and the said justices of assise before, &c. have sent here their record in these words: Afterwards the day and place within contained, before *George Treby*, Knt. chief justice of the said Lord the King of the Bench, and *Thomas Rokeby*, Knt. one of the justices of the said Lord the King of the Bench, justices of the said Lord the King assigned to take assises in the county of *Stafford*, by the form of the statute, &c. comes as well the within named *Susanna Jodrell* as the within written *Walter Jennings* by their attorney within contained; and the jurors of the jury whereof mention is within made being called, some of them, to wit, *Richard Cotton*, *Richard Pott*, *John Wooten* and *Thomas Noval* come, and on that jury are sworn; and because the rest of the jurors of the same jury have not appeared, therefore others from the by-standers by the sheriff of the county aforesaid hereto elected, at the request of the said *Susanna Jodrell*, and by the command of the justices aforesaid, are added anew, whose names are annexed to the panel within written, according to the form of the statute in such case made and provided; and the jurors so added anew, to wit, *J. Palmer*, *J. Reynolds*, *L. Dickenson*, *R. Stone*, *R. Greasebrook*, *J. Palmer*, *A. Ward* and *J. Philipps*, being called likewise come, who to say the truth of the within contained, together with the other jurors aforesaid first impanelled and sworn, being elected, tried and sworn, say on their oath, that the within named *John*, the late husband of the said *Susanna*, on the day that he married the within named *Susanna* was seised of the tenements within written with the appurtenances whereof, &c. of such his estate, so that he could endow the said *Susanna* thereof, as by the declaration within written is supposed: And the same jurors on their oath farther say, that the said *John*, of such his estate in the tenements aforesaid with the appurtenances being as aforesaid seised, died so thereof seised on the 25th day of March in the year of the Lord 1677, and that the tenements aforesaid with the appurtenances are worth by the year one pepper-corn, and they assess the damage of the said *Susanna* by reason of the detention of her dower aforesaid, besides her costs and charges by her about her suit in this behalf expended, to 1 d. and for those costs and charges to 40 s. And because the justices here will advise of and upon the premisses before they give judgment thereon, day is given to the parties aforesaid here until in the Octave of St. Hillary to hear their judgment thereon, because the same justices here thereof not yet, &c. On which day

Z z z

here

The verdict here comes as well the said *Susanna* as the said *Walter* by their attornies aforesaid, and here-
 set aside, and upon the record and verdict aforesaid being read and heard, it seems to the justices here,
 a venire de no- that the jurors aforesaid have misbehaved themselves in giving the verdict aforesaid, so that
 vs awarded. that verdict is idle and void in law: Therefore it is considered, that the verdict aforesaid be
 held as idle and void, and had for nothing; and the process against the jurors first impanelled
 being omitted, and that panel intirely withdrawn, the sheriff is commanded, that he cause to
 come anew here in the Octave of the Purification of the Blessed *Mary* 12, &c. by whom,
 &c. and who neither, &c. to recognize, &c. because as well, &c. And now here on this
 day comes the said *Susanna* by her attorney aforesaid, and the said justices of assise, before
 whom, &c. have sent here their record in these words: Afterwards the day and year within
 contained, before *S. Eyre*, Knt. one of the justices of the Lord the King assigned to hold
 pleas before the King himself, and *T. Breton*, Esq; to the said *S. Eyre* and *T. Rokeby*, Knt.
 another justice of the said Lord the King assigned to hold pleas before the King himself,
 justices of the said Lord the King assigned to take assises in the county of *Stafford*, by the
 form of the statute, &c. being this time associated, the presence of the said *T. Rokeby* being
 not expected, by virtue of the writ of the Lord the King of *Si non omnes*, &c. comes as well
 the within named *Susanna Jodrell* as the within written *Walter Jennings* by their attornies
 within contained; and the jurors of the jury, whereof mention is within made, being called,
 some of them, to wit, *T. Mason* and *M. Shaw*, come and on that jury are sworn; and be-
 cause the rest of the jurors of that jury have not appeared, therefore others from the by-
 standers by the sheriff of the county aforesaid hereto elected, at the request of the said *S.*
Jodrell, and by the command of the justices aforesaid, are added anew, whose names are
 annexed to the panel within written, according to the form of the statute in such case made
 and provided; which said jurors so added anew, to wit, *J. Batterton*, *T. Bould*, *J. Kendre-*
dine, *T. Corbett*, *J. Willet*, *J. Beane*, *E. Ward*, *R. Potts*, *T. Ashbury* and *W. Beechouse*, being
 called likewise come, who to say the truth of the within contained, together with the other
 jurors aforesaid first impanelled and sworn, being elected, tried and sworn, say upon their
 oath, that the within written *John Jodrell*, late husband of the said *Susanna*, on the day
 that he married the said *Susanna* and afterwards was seised of the tenements within written
 with the appurtenances, whereof, &c. of such estate, so that he might have endowed the
 said *Susanna*, as by the declaration within written is supposed: And the same jurors farther
 on their oath aforesaid say, that the said *John*, of such his estate in the tenements aforesaid
 with the appurtenances being as aforesaid seised, died so thereof seised on the first day of
July 1677. And they farther say, that the tenements aforesaid with the appurtenances are
 worth by the year 14*l.* and they assess the damages of the said *Susanna* by reason of the de-
 tention of the dower within written, besides her costs and charges by her about her suit in
 this behalf expended, to 12*d.* and for those costs and charges to 40*s.* Therefore it is con-
 sidered, that the said *Susanna* do recover against the said *Walter* as well her seisin of the third
 part aforesaid, to hold to herself in severalty by metes and bounds, as the value of the third
 part aforesaid, from the time of the death of the said *John* her late husband, which said
 value from the time of the death of the said *John* her late husband amounts in the whole to
 87*l.* and her damages aforesaid to 41*s.* by the jurors aforesaid in form aforesaid assessed, as
 also 12*l.* 19*s.* to the same *Susanna* at her request for her costs and charges aforesaid by the
 court here of increase adjudged, which said value and damages amount in the whole to 102*l.*
 And the said *Walter* in mercy: And hereupon the said *Susanna* prays a writ of the Lord the
 King to be directed to the sheriff of the county aforesaid, to cause her to have full seisin of
 the third part aforesaid with the appurtenances; and it is granted her returnable here on the
 morrow of the Holy Trinity, &c.

Afterwards, to wit, on *Saturday* next after the Octave of *St. Hillary* in that same term,
 before the Lord the King at *Westminster* comes the said *W. Jennings* by *N. Hickman* his at-
 torney and says, that in the record and proceedings aforesaid, and in the rendition of the judg-
 ment aforesaid, there is manifest error, in this, to wit, that by the record aforesaid it appears,
 that the said *Susanna* on the said morrow of the Holy Trinity in the said Trinity term in the
 7th year of the reign of the said Lord the now King came into the said court of the Bench be-
 fore the said *G. Treby*, Knt. and his companions, then justices of the same court, by the said *J.*
St. ney her attorney, and demanded against the said *Walter* in form aforesaid in the plea afore-
 said; and that the said *Walter* on the said morrow of the Holy Trinity likewise came into
 the same court before the said justices by the said *John Blackmore* then his attorney, and then
 said, that the said *Susanna* ought not to have dower of the tenements aforesaid with the ap-
 purtenances of the endowment of the said *John* her late husband, because he then said that
 the same *John*, late husband, &c. neither on the day that he married the said *Susanna*, nor
 ever after, was seised of the tenements aforesaid with the appurtenances, whereof, &c. of such
 his estate, so that he could endow the said *Susanna* thereof: And of that he then put him-
 self upon the country; and thereupon the issue aforesaid in form aforesaid was joined; the
 same *Walter* says, that he on the said morrow of the Holy Trinity in the said Trinity term in the

The postea.

13 E. 1. c. 30.

12 E. 2. c. 4.

14 E. 3. c. 16.

35 H. 8. c. 6.

Judgment
sign'd 13th
day of May,
8 W.Habere fac'
seisin awarded.Error assign-
ed.

7th year above said, and at the said time of the said appearance of him the said *Walter* in the said court of Bench before the said justices of the same court by the said *John Blackmore* then his attorney aforesaid, and also at the said time of the rendition of the judgment aforesaid in form aforesaid, was under the age of 21 years, to wit, at *Earnfield*, otherwise *Nonage*. *Earnfield* aforesaid in the county of *Stafford* aforesaid; in which case the same *Walter* ought to have appeared and pleaded by his guardian, and not by his attorney, in manner and form aforesaid; and the same *Walter* says, that in that there is manifest error: And this he is ready to verify: And the same *Walter* prays a writ of the Lord the King, to warn the said *Susanna* to be before the Lord the King to hear the record and proceedings aforesaid; and to him it is granted, &c.

And the said *Susanna* by *John Lilly* her attorney freely here in court comes and immediately says, that the said *Walter* ought not to have or maintain his writ of error aforesaid against her, because she says, that he the said *Walter* on the said morrow of the Holy Trinity in the same Trinity term, and at the said time that he by his attorney aforesaid appeared at the suit of the said *Susanna*, and on the day of the rendition of the judgment aforesaid, was of the full age of 21 years: And of this she puts herself upon the country: And the said *Walter* thereof likewise, &c. Therefore the sheriff of the county of *Stafford* aforesaid is commanded, that he cause to come before the Lord the King on the Octave of the Purification of the Blessed *Mary*, wheresoever, &c. 12, &c. by whom, &c. and who neither, &c. to recognize, &c. upon their oath, whether he the said *Walter* on the said morrow of the Holy Trinity in the same Trinity term, and at the said time that he by his attorney aforesaid appeared at the suit of the said *Susanna*, and on the day of the rendition of the judgment aforesaid, was of the full age of 21 years, or not, because as well, &c. The same day is given to the parties aforesaid, &c. On which day before the Lord the King at *Westminster* come the parties aforesaid by their attorneys aforesaid: And the sheriff of the county of *Stafford*, to wit, *William Murrell*, Esq; returns the said writ of *venire facias* to him in form aforesaid directed, and the names of the jurors in all things served and executed, none of whom comes: Therefore the sheriff is commanded, that he distrain the jurors aforesaid by all their lands and chattels in his bailiwick, so that he may have their bodies before the Lord the King from the day of *Easter* in 15 days wheresoever, &c. unless the justices of the said Lord the King assigned to take assises in the county of *Stafford* aforesaid on *Wednesday* 24th day of *March* at *Stafford* in the county aforesaid, by the form of the statute, &c. first come for want of jurors, &c. Therefore let the sheriff have the bodies, &c. The same day is given to the parties aforesaid, &c.

Coote against Lynch.

Mich. 8 W. 3. Roll 200.

WILLIAM the Third, by the grace of God, &c. To our trusty and well beloved counsellor *Richard Pyne*, Knt. our chief justice assigned to hold pleas before us in our kingdom of *Ireland*, greeting: Because in the record and proceedings, and also in the rendition of the judgment of a plea which was in our court of Common Bench in our kingdom of *Ireland* before you and your companions then our justices of the same court, by our writ between *John Lynch*, Gent. and *Richard Coote*, Esq; of certain trespasses and ejections on the said *John* by the said *Richard* committed, which said record and proceedings, by reason of error happening, we have caused to be brought before us in our kingdom of *Ireland*, and the judgment thereon before us in our said kingdom of *Ireland* is affirmed, and before us in our said kingdom of *Ireland* now remain, as it is said, a manifest error hath happened, to the great damage of the said *Richard*, as by his complaint we have understood; We willing the error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, command you, that if the judgment thereon be given and affirmed, then the record and proceedings aforesaid, with all things touching them, to us under your seal you distinctly and openly send, and this writ; so that we may have them on the Octave of the Purification of the Blessed *Mary*, wheresoever we shall then be in *England*, that the record and proceedings aforesaid being inspected, we may farther cause to be done therein to correct that error what of right shall be to be done; and give notice to the said *John*, that he be then there to proceed in the plea aforesaid, and farther to do and receive what our said court shall consider in the premisses. Witness Ourselves at *Westminster* 18th day of *December* in the 7th year of our reign.

Allowed, *Richard Pyne*.

Layton.

The record and proceedings of the plea whereof mention is within made, with all things touching them, before the Lord the King, wheresoever, &c. at the day and place within contained, I send in a certain record to this writ annexed; and I have given notice to the within named *John Lynch*, that he be then there to proceed in the plea aforesaid, as I am within commanded.

So I answer, *Richard Pyne*.

Pleas

The plead-
ings.

Pleas before the Lord the King at the King's court of Trinity term in the 7th year of the reign of our Lord William the Third, by the grace of God of England, Scotland, France and Ireland King, defender of the faith, &c. Witness Richard Pyne, Knt.

Savage.

The writ of
error to the
C. J. of the
C. B. in Ire-
land to certify
the record in-
to the King's
court there.

THE Lord the King hath sent to his trusty and well beloved counsellor *Richard Pyne*, Knt. his writ close in these words, to wit, *William the Third*, by the grace of God of *England, Scotland, France and Ireland King*, defender of the faith, &c. To our trusty and well beloved counsellor *Richard Pyne*, Knt. greeting: Because in the record and proceedings, and also in the rendition of the judgment of a plea which was before you and your companions, our justices of the Common Bench of our kingdom of *Ireland*, by our writ between *John Lynch*, Gent. plaintiff, and *Richard Coote*, Esq; defendant, in a plea of trespass and ejectment, as it is said, a manifest error hath happened, to the great damage of the said *Richard*, as by his complaint we have understood; We willing the error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, command you, that if judgment be therein given, then the record and proceedings of the plea aforesaid, with all things touching them, to us under your seal you distinctly and openly send, and this writ; so that we may have them before us in the Octave of the Purification of the Blessed Virgin *Mary*, wheresoever we shall then be in *Ireland*, that the record and proceedings aforesaid being inspected, we may farther cause to be done therein to correct that error what of right and according to the custom of our kingdom of *Ireland* shall be to be done. Witness our trusty and well beloved counsellor *Henry Lord Baron Capell of Tewkesbury*, *Cyrill Wych*, Knt. and *William Duncomb*, Esq; justices and governors general of our kingdom of *Ireland*, at the King's court the first day of *February* in the 7th year of our reign. Carr' and Carr'.

By virtue of this writ to me directed, the record and proceedings of the plea whereof mention is within made, with all things touching them, to the most Serene Lord the King I most humbly send, as this writ commands and requires.

Richard Pyne.

Pleas at the King's court before Richard Pyne, Knt. and his companions, justices of the Lord and Lady William and Mary, by the grace of God of England, Scotland, France and Ireland King and Queen, defenders of the faith, &c. of their Bench of their kingdom of Ireland of Hillary term in the 5th year of their reign.

Walker.

Midd', to wit. **R** *Ichard Coote*, Esq; was attached to answer *John Lynch*, Gent. in a plea why with force and arms, &c. into the castle, manor and town of *Gormanstowne*, and 200 messuages, 200 cottages, 200 gardens, 100 orchards, three wind-mills, three fulling-mills, 1000 acres of land, 1000 acres of meadow, 1000 acres of pasture, 1000 acres of heath and furze with the appurtenances, in the town and land of *Gormanstowne*, *Carrowstowne*, *Richardstowne*, *Boltray*, *Loogdeory*, *Balloy*, *Stamullni* and part of *Caddelstowne*, all and singular which premisses lie in the barony of *Duleeke* and county aforesaid, which *Jenico Preston*, Gent. commonly called *Jenico Viscount of Gormanstowne*, demised to the said *John Lynch* for a term which is not yet passed, entered, and him the said *John Lynch* from his farm aforesaid, his term aforesaid therein not yet ended, ejected, and other outrages committed on him, to the great damage, &c. and against the peace, &c. And whereon the same *John Lynch* by *Michael Hall* his attorney complains, that whereas the said *Jenico Preston*, on the 1st day of *May* in the year of the Lord 1693, at *Gormanstowne* aforesaid in the county aforesaid, had demised and to farm let to the same *John Lynch* the castle, manor and town of *Gormanstowne*, and 200 messuages, 200 cottages, 200 gardens, 100 orchards, three wind-mills, three fulling-mills, 1000 acres of land, 1000 acres of meadow, 1000 acres of pasture, and 1000 acres of heath and furze with the appurtenances, in the town and land of *Gormanstowne*, *Carrowstowne*, &c. all and singular which premisses are lying and being in the barony of *Duleeke* in the county of *Middlesex* aforesaid; To have and to hold all and singular the demised premisses aforesaid to the same *John Lynch*, his executors, administrators and assigns, for the term of 21 years then next ensuing: By virtue of which said demise the same *John Lynch*, on the second day of the month of *May* in the year of the Lord 1693 above said, into the demised premisses aforesaid with the appurtenances entered, and was thereof possessed; and being so thereof possessed the said *R. C.* on the 3d day of *May* aforesaid, in the year above said, with force and arms into the demised premisses aforesaid in and upon the possession of him the said *John* thereof entered, and him the said *John* from his farm aforesaid, his term aforesaid therein not yet ended, with force and arms ejected, expelled and amoved, and him the said *John* so expelled from his farm thereof

thereof hath kept out, and yet doth keep out, and other outrages on the same *John* then and there committed, against the peace of the Lord and Lady the now King and Queen, &c. to the great damage of the said *John*; whereby he says that he is prejudiced, and hath damage to the value of 4000 *l.* sterling: And therefore he produces the suit, &c. And the said *Richard* by *R. P.* his attorney comes and defends the force and injury when, &c. and says that he is not guilty of the premisses aforesaid above charged on him in manner and form *Not guilty.* as the said *John* hath above against him declared: And of this he puts himself on the country: And the said *John* likewise, &c. Therefore the sheriff is commanded that he cause to come here from the day of *Easter* in 15 days 12, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. The same day is given to the parties aforesaid here, &c. Afterwards the proceedings thereof between the parties aforesaid in the plea aforesaid being continued by the jury thereof between them being respited here until this day, to wit, from the day of *St. Hillary* in 15 days then next ensuing, before which day the said Lady *Mary* late Queen of *England* departed this life, after whose death, to wit, at the said 15th Demise of the day of *St. Hillary*, comes as well the said *J. L.* Gent. as the said *R. C.* Esq; by their attorneys Queen. aforesaid; and the jurors thereof impanelled being called likewise come, who to say the truth of the premisses, being elected, tried and sworn, say on their oath, that the said *R. C.* is Verdict at bar guilty of the trespass and ejectment aforesaid in manner and form as the said *J. L.* above for the plain- against him complains; and they assess the damages of the said *John* by reason of the trespass and ejectment aforesaid, beside his costs and charges by him about his suit in this behalf expended, to 12 *d.* and for those costs and charges to 6 *d.* Therefore it is considered, that the said *J. L.* Gent. do recover against the said *R. C.* his term aforesaid yet to come of and in the tenements aforesaid with the appurtenances, and his damages aforesaid to 18 *d.* by the jurors aforesaid in form aforesaid assessed, and also 36 *l.* 6 *s.* 9 *d.* to the said *J. L.* for his costs and charges aforesaid with his assent by the court here of increase adjudged, which said damages in the whole amount to 36 *l.* 8 *s.* 3 *d.* and the said *R. C.* be taken, &c.

Examined by *Walker*.

Afterwards, to wit, on *Wednesday* next after the morrow of the Holy *Trinity* in that same Scire facit term, before the Lord the King at the King's court comes the said *J. L.* by *C. R.* his at- quare execu- torney; and the same *John* prays a writ of the Lord the King to warn the said *R. C.* to be tion non a- before the said Lord the King, to shew if he has or knows any thing to say for himself, awarded, why the said *J. L.* ought not to have his execution against him of and upon the judgment aforesaid; and to him it is granted, &c. Whereby the sheriff of the county of *Middlesex* is commanded, that by good, &c. he give notice to the said *R. C.* that he be before the Lord the King on *Tuesday* next after three weeks of the Holy *Trinity*, wheresoever, &c. to shew in form aforesaid, if, &c. and farther, &c. The same day is given to the said *John*, &c. On which day before the said Lord the King at the King's court comes the said *J. L.* by his attorney aforesaid, and offered himself the fourth day of plea against the said *R. C.* in the plea aforesaid, and he being solemnly called doth not come; and the sheriff now here hath return'd, that he hath nothing, &c. nor is found, &c. Therefore as before An alias a- the sheriff of the county of *Middlesex* aforesaid is commanded, that by good, &c. he give no- warded. tice to the said *R. C.* that he be before the said Lord the King on *Wednesday* next after the morrow of *All Souls*, wheresoever, &c. to shew in form aforesaid, if, &c. and farther, &c. The same day is given to the said *J. L.* &c. On which day before the Lord the King at the King's court comes as well the said *J. L.* by his attorney aforesaid, as the said *R. C.* by *L. M.* his attorney; and hereupon the same *R. C.* produces here in the court of the said Lord the King before the King himself a certain bill of exceptions, with the seal of *R. Cox*, Knt. second Bill of ex- ceptions. justice of the said Lord the King of his court of the Bench of his kingdom of *Ireland*, and Pract. Reg. *J. Jefferson*, Knt. one of the justices of the same court, at the request of the said *R. C.* ac- 232. cording to the form of the statute in such case made and provided, thereto put, as it is af- 13 E. 1. c. 31. firmed, praying it to be here enrolled; and to him it is granted, &c. Which said bill fol- Recital of the lows in these words, to wit, Be it remember'd, that whereas *J. Lynch*, Gent. before *Richard* record of the trial. *Pyne*, Knt. and his companions, justices of the Lord the now King of his Bench of his kingdom of *Ireland* at the King's court *Dublin*, prosecuted against *R. Coote*, Esq; a certain plea of trespass and ejectment by writ of the said Lord the King and of the said late Queen, supposing by his declaration on his writ aforesaid, that *Jenico Preston*, Gent. commonly called *Jenico* Lord Viscount *Gormanstowne*, on the first day of *May* in the year of the Lord 1693, at *Gormanstowne* in the county of *Middlesex* had demised and to farm let to the same *J. L.* the castle, manor and town of *Gormanstowne*, and 200 messuages, 200 cottages, 200 gardens, 100 orchards, three windmills, three fulling-mills, 1000 acres of land, 1000 acres of meadow, 1000 acres of pasture, and 1000 acres of heath and furze with the appurtenances in *Gormanstowne*, &c. all and singular which premisses lie and be in the barony of *Duleeks* in the county aforesaid; To have and to hold all and singular the demised premisses aforesaid to the same *John Lynch*, his executors, admini- strators

strators and assigns, for the term of 21 years then next ensuing; and that by virtue of the same demise the same *John Lynch* on the second day of the month of *May* aforesaid in the year of the Lord 1693 aforesaid into the demised premises aforesaid with the appurtenances entred, and was thereof possessed; and that being so thereof possessed the said *R. C.* on the third day of *May* in the year aforesaid into the demised premises aforesaid in and upon the possession of him the said *John* thereof entred, and him the said *John* from his farm aforesaid, his term aforesaid therein not yet ended, with the like force and arms ejected, expelled and amoved, and him the said *John* so thereout expelled from his farm aforesaid hath kept out, and yet doth keep out, and other outrages on him then and there committed, to the damage of the said *John* 4000 l. sterling; to which said declaration the said *R. C.* by *R. P.* his attorney came into the same court before the said justices and defended the force and injury when, &c. and said, that he the said *Richard* was not guilty of the trespass and ejectment aforesaid in the declaration aforesaid mentioned: And of this he put himself on

The evidence
for the plain-
tiff.

Irish act,
13 C. 2.

Lease.

Entry.

Ouster.

the country: And the said *J. L.* likewise: And now here at the trial of the issue aforesaid between the parties aforesaid by *R. R. Esq.* of counsel with the said plaintiff, to maintain the issue aforesaid on the part of the said plaintiff, and to prove the title of the said *J. Preston*, the lessor of the said plaintiff, to the demised premises aforesaid at the time of the demise aforesaid made, he gave in evidence to the jurors aforesaid a certain act of Parliament of the Lord *Charles* the Second, late King of *England*, &c. begun in *Dublin* in this kingdom of *Ireland* on the 8th day of *May* in the 13th year of the reign of the Lord *Charles* the Second the late King, and there continued by several prorogations until the 26th day of *October* in the 17th year of the reign of the same late King *Charles* the Second, intituled, *An act for the better explaining of some doubts arising upon an act intituled, An act for the better execution of his Majesty's gracious declaration for the settlement of his kingdom of Ireland, and satisfaction of the several interests of adventurers, soldiers, and other his subjects there; and for making some alterations of, and additions unto the said act for the more speedy and effectual settlement of the said kingdom;* by which said act it is among other things enacted, that He likewise gave in evidence (all the particular matters given in evidence must be recited) that the said *Jenico Viscount Gormanstowne* after the making of the indenture aforesaid, to wit, on the 18th day of *October* in the year of the Lord 1696, died without any issue male of his body begotten; and that the said *Jenico Preston*, the lessor of the now plaintiff, and *Jenico Preston*, the first begotten son of *Nich. Preston*, brother of the said *Jenico*, late Viscount *Gormanstowne*, in the indenture of release aforesaid mentioned, is one and the same person, and not another nor divers; and that the said *Jenico Preston*, the lessor of the now plaintiff, after the death of the said *Jenico Viscount Gormanstowne* did demise the demised premises aforesaid to the said *John Lynch* in manner and form as in the declaration is contained; and that the said *John Lynch* by virtue of the demise aforesaid entred, and was thereof possessed until the said *Richard Coote* ejected him in manner and form as the said *John Lynch* above against him complains.

The evidence
for the defen-
dant.

Nebemiah Donnellan, Esq; the King's premier serjeant at law, of counsel with the said *R. Coote*, to prove that the said *Jenico* had no feisin, interest or title, in or to the said town, land and tenements, and that he could not recover possession of the premises in the declaration aforesaid mentioned, and that the said *Richard* was not guilty of the trespass and ejectment aforesaid on the part of the said *R. C.* to the jurors aforesaid in evidence offered, and would have proved, that all and singular the town, lands and tenements in the declaration mentioned, were seised and sequester'd into the hands and to the use of *Charles* the First late King of *England*, after the 23d day of *October* 1641, &c. And farther the said *N. Donnellan*, on the part of the said defendant, shewed and gave in evidence to the jurors aforesaid, that farther by the said act of explanation it is provided, that the said commissioners to put the act aforesaid in execution, &c. and farther the said *N. D.* to the same jurors in evidence offered, and would have proved, that the lands, tenements and premises aforesaid in the declaration aforesaid mentioned were in the feisin of the said *R. C.* at the time of the making of the act aforesaid, as assignee of the said *Charles*, late Earl of *Montrath*, being the son of the said Earl, and the lands aforesaid being to him duly assigned by the same late Earl, and to him and his heirs duly appointed in limitation, according to the true intent of the said acts; and that the lands in the declaration were the lands of the said Viscount *Gormanstowne*, and to him by the last clause or provision, after reprisals to the same *Richard* to be made, to be restored; and that the same lands and tenements contain in themselves, and at the time of making the said act of explanation did contain in themselves 1400 acres of arable land, and that no other forfeited lands were assigned to the same *Richard* as assignee of the said Viscount, or to any other person, the heir or assignee of the said Viscount, in satisfaction, except lands containing 1100 acres and no more; and that no satisfaction was made for the rents, advantages

or profits of the said lands received by the same Lord Viscount *Germanstowne* in the said act named, or by the agents after the entry upon the premises aforesaid by him made; and for these reasons, and until the full number of 1400 acres should be assigned to the same *Richard* in satisfaction of the said 1400 acres in the said declaration mentioned, and until satisfaction should be to him made for the rents and profits of the premises aforesaid, according to the true intent of the same act, neither the said Viscount, nor his assigns, ought to be restored to the tenements aforesaid in the declaration aforesaid mentioned: And the said *N. D.* farther gave and shewed in evidence to the same jurors on the behalf of the said *R. Coote*, that the said *Jenico*, late Lord Viscount *Germanstowne*, who by the same act was restored to the same tenements, was attainted of high treason committed against the Lord the now King and the late Lady the Queen, to wit, on the 10th day of *April* in the 3d year of the reign of the said Lord and Lady the King and Queen, by virtue whereof all lands and tenements were forfeited to the said Lord and Lady the King and Queen without any office or inquisition thereof found or to be found, according to the form of the statute in such case made and provided, and by reason thereof were seized into the hands of the Lord and Lady the King and Queen; wherefore because the hands of the said Lord the now King, or of the said Lord the King and of the late Lady the Queen, were not amoved, the said *Jenico* in the declaration aforesaid mentioned by entry no possession or seisin could obtain; therefore for that reason the demise of the premises aforesaid to the same *J. Lynch*, made as is supposed, was invalid and of no effect: And he farther shewed in evidence to the same jurors and said, that the said instrument in writing produced on the part of the plaintiff imported an enrolment in the Exchequer of a certain order made by the same commissioners for the execution of the said act of Parliament, to wit, an order bearing date the 1st day of *January* 1668, by *R. Rochford*, Esq; of counsel with the plaintiff, in evidence to the jurors aforesaid shewn, ought not to be given without proof of the same by the oath of witnesses, that the order aforesaid was signed and sealed by the same commissioners, because it was not of record, nor in itself any order which was recorded; and he the said *N. D.* desired the said justices, before whom the trial of the issue aforesaid was, to inform the jurors aforesaid, and declare to them the law of and upon the premises, and that the lease aforesaid to the same plaintiff made for the reason aforesaid, was invalid, and that the said *Jenico Preston* ought not to be restored to the premises aforesaid by reason of the impediments and for the causes aforesaid, which ought to be removed, according to the form and effect of the said statute, before he could be restored; but the same justices affirmed to the jurors aforesaid, that the said matter, by the said *N. D.* in manner and form aforesaid shewn, was of no effect to preclude the said *Jenico* aforesaid, or the said plaintiff, from having or maintaining his action aforesaid; wherefore the same *N. D.* because the matter aforesaid by the same *N.* shewn, and to the jurors aforesaid in evidence produced and given, doth not appear, nor could in any manner appear by the verdict of the jurors aforesaid required of the same justices, according to the form of the statute in such case made and provided, this present bill, which contains in itself the matters aforesaid to the same jurors by the said *N.* in evidence shewn in manner and form aforesaid, which said justices aforesaid, at the request of the said *N.* to this present bill, according to the form of the statute in such case, did put their seal, at the King's court aforesaid 4th day of sealed. *February* 1694. *R. Cox*, *J. Jeffreson*. And the same *R. Coote* prays a writ of the Lord the King, to warn the said *R. Cox*, Knt. and *J. Jeffreson*, Knt. the justices aforesaid, that they be before the said Lord the King, wheresoever, &c. and it is granted him, &c. whereby the same justices are commanded to be before the said Lord the King on *Saturday* next after the morrow of *St. Martin*, wheresoever, &c. to confess or deny their seals by them to the bill of exceptions aforesaid, as aforesaid is asserted to be put, according to the form and effect of the statute, &c. On which day before the said Lord the King at the King's court come the said *R. Cox* and *J. Jeffreson* in their proper persons, and confess the seals by them to the bill of exceptions aforesaid, as aforesaid is asserted to be put, were the seals of them the said *R. Cox* and *J. Jeffreson*: And hereupon the same *R. Coote* produces here in the court of the said Lord the King before the King himself a certain other writ of error in the premises, to *R. Reynell*, Knt. and Bart. chief justice of the said Lord the King here, &c. directed, in these words, to wit, *William* the Third, &c. To our trusty and well beloved counsellor *R. Reynell*, Knt. and Bart. our chief justice assigned to hold pleas before us in our kingdom of *Ireland*, and his companions our justices there, greeting: Because in the record and proceedings of a plea which was in our court and of the Lady *Mary* the late Queen of the Common Bench, before our trusty and well beloved counsellor, and of the Lady *Mary* our late Queen, *Richard Pynes*, Knt. and his companions our justices, and of the Lady *Mary* our late Queen of the same Bench, as also in the rendition of the judgment of the same plea which was in our court of our Common Bench between *John Lynch*, Gent. plaintiff, and *Richard Coote*, Esq; defendant, in a plea of trespass and ejectment, as it is said, a manifest error hath happened, to the great damage of the said *Richard*, as by his complaint we have understood; We command you, that the record and proceedings aforesaid being inspected, you farther cause to be done therein to correct that error what of right and according to the law and

and custom of our kingdom of *Ireland* shall be to be done. Witness our trusty and well beloved counsellor *Henry Lord Baron Capell of Tewkesbury*, our deputy general governor of our kingdom of *Ireland*, at the King's court 31st day of *May* in the 7th year of our reign.
 Allowed *R. Reynell.* Carr' and Carr' by Carr'.

Errors assigned.

And hereupon the same *R. Coote* by his attorney aforesaid comes and says, that in the record and proceedings aforesaid, and also in the rendition of the judgment aforesaid, there is manifest error, in this, to wit, that by the record and proceedings aforesaid it appears, that the judgment aforesaid in the plea aforesaid given was given for the said *J. Lynch* against him the said *R. Coote*, when by the law of the land of this kingdom of *Ireland* judgment in that plea ought to have been given for the said *Richard* against the same *John*; wherefore, and for other errors in the record and proceedings aforesaid being, the same *R. Coote* prays, that the judgment aforesaid may be reversed, annulled and held as intirely void, and that he may be restored to all things which he hath lost by reason of the said judgment, &c.

The plaintiff counts upon the errors.

On which *Saturday* next after the morrow of *St. Martin* comes as well the said *Richard* as the said *John* by their attorneys aforesaid; upon which the said *Richard* as before says, that in the record and proceedings aforesaid, as also in the rendition of the judgment aforesaid, there is manifest error, alledging the errors aforesaid by him the said *Richard* in form aforesaid above assigned, and prays that the judgment aforesaid, for the errors aforesaid and others being in the record and proceedings aforesaid, may be reversed, annulled and held as intirely void, and that he may be restored to all things which he hath lost by reason of the said judgment, and that the said *John* to the errors aforesaid may rejoin; and that the court of the said Lord the King here may proceed to the examination as well of the record and

In nullo est erratum.

proceedings aforesaid, as of the said matters above for error assigned: And the said *J. Lynch* says, that there is no error either in the record and proceedings aforesaid, or in the rendition of the judgment aforesaid; and prays likewise, that the court of the said Lord the King may proceed to the examination as well of the record and proceedings aforesaid, as of the said matters above for error assigned; and that the judgment aforesaid may be in all things affirmed, &c. And because the court of the said Lord the King here are not yet advised to give their judgment of and upon the premisses, day therefore is given to the parties aforesaid before the said Lord the King until on the Octave of *St. Hillary*, wheresoever, &c. to hear their judgment of and upon the premisses, because the court of the Lord the King here thereof not yet, &c. On which day before the said Lord the King at the King's court come the parties aforesaid by their attorneys aforesaid; whereupon the premisses being seen, and by the court of the said Lord the King here fully understood, and as well the record and proceedings and the judgment thereon, as the said causes for error by the said *R. Coote* above assigned, being diligently examined, and mature deliberation being thereon had, it seems to the court of the said Lord the King here, that that record is in nothing erroneous; therefore it is considered, that the judgment aforesaid be in all things affirmed, and stand in its whole force and effect, the said causes and matters above for error assigned in any wise notwithstanding: And farther it is considered, that the said *J. L.* do recover against the said *R. C.* 18*l.* 16*s.* sterling, for his costs and damages which he hath sustained by reason of the delay of execution of the judgment aforesaid by pretence of prosecution of the said writ of the said Lord the King of error, and that the said *J. L.* have thereof execution, &c.

Judgment affirmed.

Errors assigned in England.

Afterwards, to wit, on *Friday* next after the morrow of *St. Martin* in that same term, before the Lord the King at *Westminster* comes the said *R. C.* by *John Lilly* his attorney, and says, that in the record and proceedings aforesaid, and also in the rendition of the judgment aforesaid, and in the affirmance of the same, there is manifest error, in this, to wit, that by the record of the judgment aforesaid, and of the affirmance of the same, it appears, that the judgment aforesaid in form aforesaid was given and affirmed for the said *J. Lynch* against the said *R. Coote*, when by the law of the land of the said kingdom of *Ireland* that judgment ought to have been given for the said *Richard* against the said *John*; therefore in that it is manifestly erroneous: And this the same *Richard* is ready to verify: Wherefore he prays that the judgment aforesaid, and the affirmance of the same, for that error and others being in the record and proceedings aforesaid, may be reversed, annulled and held as intirely void; and that the same *R. C.* may be restored to all things that he hath lost by reason of the judgment and affirmance aforesaid, &c. and that the said *John* to those errors may rejoin, &c.

In nullo est erratum.

And the said *John* by *Jonathan Bolt* his attorney freely here into court comes, and ever being had of the errors aforesaid, immediately says, that there is no error either in the record and proceedings aforesaid, or in the rendition of the judgment aforesaid, or in the affirmance of the same judgment, and prays, that the court of the said Lord the King here may proceed to the examination as well of the record and proceedings aforesaid, as of the matters above for error assigned; and that the judgment aforesaid may be in all things affirmed; and because the court, &c.

The writ of error in Parliament.

William the Third, &c. To our trusty and well beloved *J. Holt*, Knt. our ch. just. assigned to hold pleas before us, greeting: Because in the record and proceedings of a certain plea which was in our court and of the Lady *Mary* the late Queen of the Common Bench in our kingdom and

of the said late Queen of Ireland, before Richard Pyne, Kt. and his companions then our justices and of the said late Queen of the same court, by our writ and of the said late Queen, and also in the rendition of the judgment of the same plea which was in our court of Common Bench aforesaid between John Lynch, Gent. and Richard Coote, Esq; for certain trespass and ejectment on the same John by the said Richard committed, which said record and proceedings, by reason of error happening before us in our said kingdom of Ireland, we caused to be brought, and the judgment thereof before us in our kingdom of Ireland was affirmed, and thereupon the said record and proceedings, by reason of error happening, we caused to be brought before us in England, and the judgment thereof before us in England is affirmed, as it is said, a manifest error hath happened, to the great damage of the said Richard, as by his complaint we have understood: We willing the error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, command you, that if judgment in the Common Bench in our kingdom of Ireland and in our court before us in England be affirmed, then the record and proceedings aforesaid, with all things touching them, to us in our present Parliament you distinctly and openly without delay send, and this writ, that the record and proceedings aforesaid being inspected, we may farther cause to be done therein, with the assent of the Lords Spiritual and Temporal being in the same Parliament, to correct that error, what of right and according to the law and custom of our kingdom of England shall be to be done. Witness Ourself at Westminster 26th day of January in the 9th year of our reign.

S. Terry.

* The answer of John Holt, Knt. the chief justice within named:

The record and proceedings of the plea whereof mention is within made, with all things touching them, to the Lord the King within named in the present Parliament with my proper hands I have produced in a certain record to this writ annexed, as I am within commanded.

J. Holt.

Pleas before the Lord the King at Westminster of Michaelmas term in the 8th year of the reign of the Lord William the Third, now King of England, &c. Roll 347.

ON which day before the Lord the King at Westminster come the parties aforesaid by their attorneys aforesaid: Whereupon all and singular the premisses being seen, and by the court of the said Lord the King now here more fully understood, and as well the record and proceedings aforesaid, and the judgment upon the same given, as the said causes and matters by the said Richard Coote for error assigned, being diligently examined and inspected, because it seems to the court of the Lord the King now here, that there is no error either in the record and proceedings aforesaid, or in the rendition of the judgment aforesaid, and that the said record is in no wise vitious or defective: It is considered, that the judgment aforesaid be in all things affirmed, and stand in its full force and effect, the said causes and matters for error assigned in any wise notwithstanding: And farther it is considered by the court of the said Lord the King here, that the said John Lynch do recover against the said Richard Coote 44 l. to the same John Lynch by the court of the Lord the King now here, according to the statute in such case made and provided, adjudged for his costs, charges and damages, which he hath sustained by reason of the delay of execution of the judgment aforesaid by pretence of prosecuting the said writ of error; and that the said John Lynch have thereof execution, &c.

Judgment affirmed.

H. 7. c. 10.

Afterwards, to wit, the fourth day of March in the 10th year of the reign of the Lord William the Third, now King of England, &c. comes the said R. Coote by J. Lilly his attorney and says, that in the record and proceedings aforesaid, and also in the rendition of judgment in the several affirmances of the judgment aforesaid in the record aforesaid mentioned, there is manifest error, in this, to wit, that by the record aforesaid it appears that the judgment aforesaid by the said court of the said Lord the King before the King himself at the King's court in the kingdom of Ireland, and also by the said court of the said Lord the King before the King himself in England, is in all things affirmed, when no such affirmance of the judgment aforesaid thereon ought to have been given; therefore in that there is manifest error: And he prays that the judgment aforesaid for those errors and others being in the record and proceedings aforesaid may be reversed, annulled and held as intirely void; and that he to all things, which by reason of the judgment aforesaid he hath lost, may be restored; and that the said John Lynch to the errors aforesaid may rejoin, &c.

Edw. Noribey.

And the said John says, that there is no error either in the record and proceedings aforesaid, or in the rendition of the judgment aforesaid: And prays likewise that the court of error, Parliament now here may proceed to the examination as well of the record and proceedings aforesaid, as of the matters aforesaid by the said Richard Coote above for error assigned; and that the judgment aforesaid may be in all things affirmed.

Caribew.

Saunders

Saunders and Owen.

March 1698.

Error assigned
in Parliament
on the rever-
sal of a judg-
ment in C. B.

AND upon this before the Lord the King and the Peers of this kingdom of England in Parliament at *Westminster* in the county of *Middlesex* assembled comes the said *Philip Owen* by *R. Hardisty* his attorney, and says, that in the record and proceedings of the reversal and annulling of the judgment aforesaid on the first writ of error there is manifest error, in this, to wit, that the judgment aforesaid by the court of the said Lord the King before the King himself on the first writ of error was reversed and annulled, when by the law of this kingdom of England that judgment ought to have been in all things affirmed; and therefore in that there is manifest error: And the said *Philip* prays that the reversal and annulling of the judgment aforesaid, for that error and others being in the record and proceedings of the reversal and annulling of the same judgment, may be reversed, annulled and held as intirely void; and that the said first judgment may be in all things affirmed; and that he may be restored to all things which he hath lost by reason of the reversal and annulling of the same; and that the said *R. Saunders* to the error aforesaid may rejoin, &c.

Joinder in
errors.

And the said *R. Saunders* by *John Jones* his attorney before the said Lord the King and the Peers in the present Parliament of England at *Westminster* in the county of *Middlesex* assembled likewise comes and says, that there is no error in the record and proceedings of the reversal and annulling of the judgment aforesaid on the first writ of error aforesaid reversed and annulled; and prays that the Lord the King and the Peers in the present Parliament of England at *Westminster* in the county of *Middlesex* aforesaid assembled now here may proceed to the examination as well of the record and proceedings of the reversal and annulling of the judgment aforesaid on the first writ of error, as of the matter aforesaid above for error assigned; and that the judgment of reversal and annulling of the judgment aforesaid on the first writ of error aforesaid may be in all things affirmed, &c.

Winchurst and others against Belwood and others.

Hill. 3 & 4 Jac. Roll 420.

Writ of error
to reverse a
fine.

WRITS were directed as in *Cock and Ball*, and the last writ was to the *custos bre- vium*, that he should send the transcript of the said fine, with all things touching it, &c. and *G. W.* and *J.* his wife by *W. Turbill* their attorney come, and *R. S.* and *T. S.* solemnly called do not come; and *G. W.* and *J.* his wife say, that in the record and proceedings aforesaid, and also in the levying of the fine aforesaid, there is manifest error; and they pray a writ of the said Lord the King to summon the said *R. S.* and *T. S.* to be before the Lord the King to prosecute the writ of error aforesaid, and to assign errors being in the record and proceedings aforesaid, as also in the levying of the fine aforesaid, together with the said *G. W.* and *J.* his wife; and it is granted them; whereby the sheriff is commanded, that he summon the said *R. S.* and *T. S.* that they be before the Lord the King on the Octave of the Purification, wheresoever, &c. to prosecute, together with the said *G.* and *J.* the writ of error aforesaid in form aforesaid, if, &c. and farther, &c. The same day is given to the said *G.* and *J.* &c. On which day before the Lord the King at *Westminster* come the said *G.* and *J.* by their attorney aforesaid, and the said sheriff, to wit, *H. B.* returns, that by *H. B.* and *O. D.* good, &c. he had summoned the said *R. S.* and *T. S.* to be before the Lord the King, according to the command of the writ aforesaid, as he, &c. which said *R. S.* and *T. S.* being on the fourth day of plea solemnly called, come in their proper persons and offer themselves ready to prosecute the writ of error aforesaid, together with the said *G.* and *S.* and to assign errors in the record and proceedings aforesaid, and also in the levying of the fine aforesaid; whereupon the said *G.* and *J.* *R. S.* and *T. S.* say (and so they assign errors) and pray a writ of the Lord the King to warn *R. B.* and *S. B.* (the defendants) and also all the tenants of the lands aforesaid, that they be before the Lord the King, &c. to hear the record and proceedings aforesaid, and to answer to the errors aforesaid; and it is granted them; whereby the sheriff is commanded, that, &c. to answer to the errors aforesaid: The same day is given to the plaintiffs: On which day come the said plaintiffs by their attorney aforesaid, and the said *R. S.* and *T. S.* in their proper persons, and a *sci' fac'* returned to the defendants and tenants; and the defendants, to wit, *R. B.* and *T. M.* being solemnly called likewise come, to wit, *R. B.* in his proper person, and the said *T. M.* by *A. B.* his attorney; and upon this the same *T. M.* by protesting that he was not summoned, for plea prays judgment of the writ of error in form aforesaid obtained, because he says, that by that writ obtained, and pleads the death of the plaintiffs who had the estate; and also he says, that one of the plaintiffs in the writ of error, and return'd tenant, ought not to be plaintiff and defendant, being

being incompatible and absurd: And this, &c. Wherefore, for that the said writ of error against him the said R. and the said T. S. is obtained in the name and to the damage of the said R. S. and for that he is thereto become a defendant, the same T. M. prays judgment of the said writ, and that the writ may be quashed: And the said Roger Belwood says, that the said Richard Stock, Thomas Stavely, George Winch and Jane his wife, the said writ of error against him the said Roger and the said Thomas Mosely ought not to have or maintain, because he says, that after the levying of the fine aforesaid, and before the prosecution of the writ of error aforesaid, to wit, 1 Aug. 2 Jac. the said Thomas Stavely by his certain writing of release made at H. aforesaid, sealed with the seal of the said Thomas Stavely, and here in court, &c. and so pleads the release: And this, &c. Wherefore he prays that the fine aforesaid may be affirmed.

And the said Richard Stock (*returned tenant*) as to this, that he is tenant, &c. with the appurtenances returned, says, that he is not, nor on the day of the issuing of the writ of *scire facias* aforesaid, nor ever after, was tenant of the tenements, or of any, &c. as of freehold, but one George Jackson is, and the day, &c. was thereof tenant as of freehold: And this, &c. Wherefore for as much as he, together with the said Thomas Stavely, and George Winch and Jane, is plaintiff in the said writ of error, he prays a writ, &c. to warn the said George Jackson to hear the record and to answer to the errors aforesaid, &c. Stavely, Winch and his wife imparl until the morrow of Trinity, wheresoever, &c. to reply: And the same day is given to them and to Richard Stock. On which day before, &c. come the said Thomas Stavely and Jane, late the wife of George Winch, now Jane Winch, widow, by W. T. their attorney; and the said Richard Stock and Roger Belwood in their proper persons, as also Thomas Mosely by his attorney aforesaid: And the said Thomas Stavely and Jane Winch say, that the said Geo. Winch after the last continuance of the said writ of error, to wit, after the said five weeks of Easter and before this day, to wit, the said morrow of the Holy Trinity, until which day, &c. to wit, the 4th day of June, at, &c. died: And because the said Richard Stock, Roger and Thomas Mosely do not deny it, but grant it to be true, therefore it is considered, that the writ of error be quashed, &c. Whereupon the said Thomas Stavely and Jane Winch pray leave to purchase a new writ of error of and upon the premisses of record before the Lord the King now remaining; and it is granted them: Afterwards, to wit, in Easter term in the 2d year of William and Mary, the same Lord the King and Queen sent another writ of error of and upon the premisses, directed to their said justices assigned to hold pleas before them, &c. which follows in these words, to wit, William, &c.

Afterwards, to wit, on Friday next after the morrow of the Holy Trinity then next following, before, &c. comes the said Jane W. by her attorney aforesaid; and the said Thomas Stavely, altho' solemnly called, doth not come; whereupon the same Jane says, that, &c. there is manifest error; and prays a writ to summon Stavely to be before, &c. three weeks of Trinity, &c. The same day is given to the said Jane, &c. On which day before, &c. comes the said Jane by her attorney aforesaid; and the summons returned; which said Thomas Stavely by C. Yates his attorney offered himself ready to prosecute and assign errors; and hereupon the said Thomas Stavely and Jane say, that the said R. Stock and Jane his wife (*as before in the bar*) and death, and assign errors, as above, may be restored; and pray a writ to warn Belwood and Mosely, and the tertenants, returnable *tres Mich'*: The same day is given to Stavely and Jane, &c. And the sheriff hath not returned the writ: Therefore as before in the Octave of St. Hillary: And then summons returned of Belwood and Mosely, and Stock the tertenants; and they so summoned come, and pray *oyer* of the writ of *scire facias* aforesaid, and of the return thereof; and they are read in these words; which being read, the same Mosely protests that he was not summoned, for plea he pleads and prays judgment of the writ of error last issued, because he says, that it doth not appear by the same writ of error, who or which of the said R. Belwood, Thomas Mosely and R. Stock or Jane his wife, were or was plaintiff of and in the fine aforesaid, and who or which of them were deforceants of the tenements in the same fine specified, as by the same writ ought to appear; wherefore he prays judgment of that writ, and that it may be quashed.

Belwood pleads a release of errors as before.—Stock pleads non-tenancy, that Jackson is tenant.—Plaintiff imparls to Michaelmas term: On which day Winch demurs to Mosely's plea.—She after demurs to Belwood's plea, may be restored; and demurs also to Stock's plea, may be restored.—Stavely demurs to Mosely's plea,—and to Belwood's pleads *non est factum*;—and as to Stock's plea, to the *scire facias* cannot deny but it is good in law; and farther confesseth, that well and true it is, that Stock is not, but that Jackson was tenant; and prays that the writ aforesaid may be quashed; and she may have a writ to summon Jackson.—Mosely joins in demurrer, and so doth Belwood.—And she to the plea of Jane joins in demurrer.

Pemberton:

Pemberton: As to the release he is a coparcener, and one cannot release to the other; there is no privity; *quod cur' concessit*: We have replied severally where it ought to be jointly, and this without leave of the court. 29 *Aff.* 35. *Cur'* thought they might sever, if they agree to assign error without summons and severance; and grant the case of the 29 *Aff.* And that if the defendant in error had pleaded pleas several in their natures, the plaintiffs might well reply severally of course. *Et per* chief justice: Where one pleads a covinous matter, this may be examined in court, and if it be found fraud, we may sever.

Ball versus Cock.

Hill. 1 & 2 *Jac.* 2. *Roll* 546.

Error to reverse a fine.

England, to wit. **T**HE Lord the King hath sent to his beloved *Francis Lane*, Esq; his chirographer of the Bench, his writ close in these words, to wit, *James* the Second, by the grace of God, &c. To our beloved *Francis Lane*, Esq; our chirographer of the Bench, greeting: Because in the record and proceedings, as also in the levying of a certain fine in our court of the Bench at *Westminster* from the day of the Holy Trinity in three weeks in the first year of our reign, before *Thomas Jones*, Knt. our chief justice of the Bench, and *Job Charleton*, *Creswell Levinz* and *Thomas Street* his companions, then our justices of the Bench aforesaid, and others our faithful subjects then there present, by our writ between *John Cox*, Gent. and *Thomas Axe*, Gent. plaintiffs, and *Nathaniel Cox*, Gent. and *Sarah* his wife deforceants of the 3d part of the rectory of *Madderne Parva* and *Penzance* with the appurtenances, and of all and all manner of tithes yearly arising, growing and renewing in *Madderne Parva* and *Penzance* in the county of *Cornwall*; and by our other writ between the said *John Cox*, Gent. and *Thomas Axe*, Gent. plaintiffs, and the said *Nathaniel Cox*, Gent. and *Sarah* his wife, of the 3d part of eight messuages with the appurtenances in the parish of *St. Mary Magdalen*, *Milk-street* in *London*, a manifest error hath happened, to the great damage of *John Ball*, Gent. son and heir of the said *Sarah*, as by his complaint we have understood; We willing the error, if any hath been, should be duly corrected, and full and speedy justice done to the said *John Ball* in this behalf, command you, that the transcript of the note of the fine aforesaid, and of the writs of covenant, with all things touching them which are in your custody, as it is said, to us under your seal you distinctly and openly send, and this writ; so that we may have them on the Octave of *St. Hillary*, wheresoever we shall then be in *England*, that the transcript aforesaid being inspected, we may farther cause to be done therein what of right and according to the custom of our kingdom of *England* shall be to be done. Witness Ourself at *Westminster* the 4th day of *January* in the 1st year of our reign.

Santbry.

The answer of the witbin named Francis Lane, Esq; chirographer of the Lord the King of the Bench, to this writ:

The return.

The transcript of the note and of the writs of covenant of the fine within specified, with all things touching them which are in my custody, to the Lord the King under my seal I distinctly and openly send, as I am within commanded. The residue of this writ appears in a certain schedule to this writ annexed.

The writ of covenant.

James the Second, by the grace of God of *England*, *Scotland*, *France* and *Ireland* King, defender of the faith, &c. To the sheriff of *Cornwall*, greeting: Command *Nathaniel Cox* and *Sarah* his wife that they justly and without delay perform to *John Cox*, Gent. and *Thomas Axe*, Gent. the covenant between them made of the third part of the rectory of *Madderne Parva* and *Penzance* with the appurtenances, and of all and all manner of tithes yearly arising, growing and renewing in *Madderne Parva* and *Penzance*; and unless they shall do it, and the said *John* and *Thomas* shall make you secure of prosecuting their suit, then summon by good summoners the said *Nathaniel* and *Sarah*, that they be before our justices at *Westminster* from the day of the Holy Trinity in three weeks, to shew why they have not done it: And have there the summons, and this writ. Witness Ourself at *Westminster* 19th day of *June* in the 1st year of our reign. *Hungerford* for half mark paid for a fine, by *J. Potenger* for the fine, because it is affirmed that the within tenements do not exceed 3*l.* per annum. *J. Potenger*. Pledges to prosecute *John Doe* and *Richard Roe*. Summoners *John Den* and *Richard Fen*. Fine 6*s.* 8*d.* *Pere Bertie*, *Edward Courtborp*, Trinity the 1st of King *James* the Second, *Roll* 4. *Richard Edgecombe*, Knt. sheriff, 3*l.*

James

James the Second, by the grace of God, &c. To the sheriffs of London, greeting: Com-
mand Nathaniel Cox, Gent. and Sarab his wife, that they justly and without delay perform
to John Cox, Gent. and Thomas Axe, Gent. the covenant between them made of the 3d part
of eight messuages with the appurtenances in the parish of St. Mary Magdalen, Milk-street:
And unless they shall do it, and the said John and Thomas shall make you secure of prose-
cuting their suit, then summons by good summoners the said Nathaniel and Sarab, that
they be before our justices at Westminster from the day of the Holy Trinity in three weeks,
to shew why they have not done it; and have there the summoners, and this writ. Witness
Ourselves at Westminster 19th day of June in the first year of our reign. Shelbery for 20 s. paid
for a fine, by J. Potenger for the fine, because it is affirmed that the within tenements do
not exceed the value of 10 l. per ann' J. Potenger. Pledges to prosecute John Doe and
Richard Roe. Summoners John Den and Richard Fenn. Fine 20 s. Pere Bertie, Edward
Courtboop, Trinity the 1st of King James the Second, Roll 4. The answer of William
Goslin, Knt. Peter Vandeput, Knt. sheriffs, 10 l.

The writ of
COVENANT.

Between John Cox, Gent. and Thomas Axe, Gent. plaintiffs, and Nathaniel Cox, Gent. and
Sarab his wife, deforceants, of the third part of the rectory of Madderne Parva and Pen-
zance with the appurtenances, and of all and all manner of tithes yearly coming, growing
and renewing in Madderne Parva and Penzance in the County of Cornwall, and of the 3d
part of eight messuages with the appurtenances in the parish of St. Mary Magdalen Milk-
street in London, whereof a plea of covenant was summoned between them, &c. to wit, that
the said Nathaniel acknowledges the said third parts with the appurtenances to be the right
of the said John, as those which the same John and Thomas have of the gift of the said
Nathaniel and Sarab, and those they have released and quitted claim from them the said
Nathaniel and Sarab and their heirs to the said John and Thomas and to the heirs of the
said John for ever: And moreover the same Nathaniel and Sarab have granted for themselves
and the heirs of the said Sarab, that they will warrant to the said John and Thomas, and the
heirs of the said John the said 3d parts with the appurtenances, against the said Nathaniel and
Sarab and the heirs of the said Sarab for ever: And for this, &c. the same John and Tho-
mas have given to the said Nathaniel and Sarab 260 l. sterling, Cornwall, London, from three
weeks of the Holy Trinity in the first year of the reign of James the Second, by the grace
of God, &c. from the conquest: The ingrossment of the proclamations according to the
form of the statute; the 1st proclamation was made 28th day of July in Trinity term in
the 1st year of the King within written, the 2d proclamation was made the 3d of November
in Michaelmas term in the 1st year of the King within written.

R. s. c. 9.

Francis Lane.

The Lord the King hath sent to his trusty and well beloved Thomas Jones, Knt. his chief
justice of the Bench, his writ close in these words, to wit, James the Second, by the grace
of God, &c. To our trusty and well beloved Tho. Jones, Knt. our chief justice of the Bench,
greeting: Because in the record and proceedings, and also in the levying of a certain fine
in our court of the Bench at Westminster, from the day of the Holy Trinity in three weeks in
the 1st year of our reign, before you Job Charleton, Creswell Levinz and Tho. Street your com-
panions, then our justices of the Bench aforesaid, and others our faithful subjects there then
present, by our writ between John Cox, Gent. and Thomas Axe, Gent. plaintiffs, and Na-
thaniel Cox, Gent. and Sarab his wife, deforceants, of the 3d part of the rectory of Madderne
Parva and Penzance in the county of Cornwall, and by our other writ between the said John
Cox, Gent. and Thomas Axe, Gent. and the said Nathaniel Cox, Gent. and Sarab his wife, of
the 3d part of eight messuages with the appurtenances in the parish of St. Mary Magdalen
Milk-street in London, a manifest error hath happened, to the great damage of John Ball,
Gent. son and heir of the said Sarab, as by his complaint we have understood: We willing
the error, if any hath been, should be duly corrected, and full and speedy justice done to the
said John Ball in this behalf, command you, that the record and proceedings of the fine
aforesaid, with all things touching them, which are in your custody as it is said, to us under your
seal you distinctly and openly send, and this writ, so that we may have them on the Octave
of St. Hillary, wheresoever we shall then be in England, that the record and proceedings
aforesaid being inspected, we may further cause to be done therein to correct that error
what of right and according to the law and custom of our kingdom of England shall be
to be done. Witness Ourselves at Westminster 4th day of January in the 1st year of our reign.

Writ of error
to the C. J. to
certify the
same fine.

Santby.

The answer of Thomas Jones, Knt. the chief justice within named:

The record and proceedings of the fine whereof mention is within made, with all things
touching them, before the Lord the King, wheresoever, &c. on the day within contained,
I send in a certain record to this writ annexed, as I am within commanded.

The return.

Tho. Jones.

Pleas of land inrolled at Westminster before Thomas Jones, Knt. and his companions, justices of the Lord the King of the Bench, of Trinity term in the 1st year of the reign of the Lord James the Second, by the grace of God of England, Scotland, France and Ireland King, defender of the faith, &c. Roll 155.

Licentia concordandi.

Cornwall, to wit, **JOHN Cox**, Gent. gives the Lord the King 40s. for leave to agree with **Nathaniel Cox**, Gent. and **Sarah** his wife, in a plea of covenant of the 3d part of the rectory of *Madderne Parva* and *Penzance* with the appurtenances, and of all and all manner of tithes yearly coming, growing and renewing in *Madderne Parva* and *Penzance* in the county of *Cornwall*, and of the 3d part of eight messuages with the appurtenances in the parish of *St. Mary Magdalen Milk-street* in *London*; and he hath it by the court for peace admitted before *Creswell Levinz*, Knt. justice, in his proper person.

Writ of error directed to the custos brevium.

The Lord the King hath sent to his beloved *William Thursby*, Esq; keeper of his writs of the Bench, his writ close in these words, to wit, *James* the Second, by the grace of God of *England, Scotland, France* and *Ireland* King, defender of the faith, &c. To our beloved *William Thursby*, Esq; the keeper of our writs of the Bench, greeting: Because in the record and proceedings, as also in the levying of a certain fine in our court of the Bench at *Westminster* from the day of the *Holy Trinity* in three weeks in the first year of our reign, before *Thomas Jones*, Knt. chief justice of our Bench, and *Job Charleston*, *Creswell Levinz* and *Thomas Streete* his companions, our justices of the Bench aforesaid, and others our faithful subjects there then present, by our writ between *John Cox*, Gent. and *Thomas Axe*, plaintiffs, and *Nathaniel Cox*, Gent. and *Sarah* his wife, deforceants, of the 3d part of the rectory of *Madderne Parva* and *Penzance* with the appurtenances, and of all and all manner of tithes yearly coming, growing and renewing in *Madderne Parva* and *Penzance* in the county of *Cornwall*, and by our other writ between the said *John Cox*, Gent. and *Thomas Axe*, Gent. and the said *Nathaniel Cox*, Gent. and *Sarah* his wife, of the 3d part of eight messuages with the appurtenances in the parish of *St. Mary Magdalen Milk-street* in *London*, a manifest error hath happened, to the great damage of *John Ball*, son and heir of the said *Sarah*, as by his complaint we have understood: We willing the error, if any hath been, should be duly corrected, and full and speedy justice done to the same *John Ball* in this behalf, command you, that the transcript of the foot of the fine aforesaid, with all things touching it which are in your custody, as it is said, to us under your seal you distinctly and openly send, and this writ, so that we may have them on the Octave of *St. Hillary*, wheresoever we shall then be in *England*, that the transcript aforesaid being inspected, we may farther cause to be done therein to correct that error what of right and according to the law and custom of our kingdom of *England* shall be to be done. Witness Ourself at *Westminster* the 4th day of *January* in the 1st year of our reign.

Santhey.

The answer of William Thursby, Esq; the keeper of the writs within named:

The return.

The transcript of the foot of the fine whereof mention is within made, with all things touching it as they are in my custody, to the Lord the King I distinctly and openly send according to the command of this writ, as appears in the schedule to this writ annexed, as I am within commanded. *W. T. 18 January 1685.*

The dedimus.

James the Second, by the grace of God of *England, Scotland, France* and *Ireland* King, defender of the faith, &c. To our trusty and well beloved *Creswell Levinz*, Knt. one of our justices of the Bench, greeting: Whereas by our writ of covenant between *John Cox*, Gent. and *Thomas Axe*, Gent. and *Nathaniel Cox*, Gent. and *Sarah* his wife, of the 3d part of the rectory of *Madderne Parva* and *Penzance* with the appurtenances, and of all and all manner of tithes yearly coming, growing and renewing in *Madderne Parva* and *Penzance* in the county of *Cornwall*; and by our other writ of covenant between the said *John* and *Thomas* and the said *Nathaniel* and *Sarah*, of the 3d part of eight messuages with the appurtenances in the parish of *St. Mary Magdalen Milk-street* in *London*, depending before you and your companions our justices of the Bench, to levy the fines thereof between them before you and your companions aforesaid in the Bench aforesaid; according to the law and custom of our kingdom of *England*; and the same *Nathaniel* and *Sarah* are, as we have understood, so weak that they are not able to travel to *Westminster* on the days in our said writs contained, to make the cognizances which in this behalf are required, without great danger of their lives: We

We compassionating the condition of the said *Nathaniel* and *Sarah* in this behalf, have given you power to receive the cognisances which the said *Nathaniel* and *Sarah* before you will make of the premises; and therefore we command you, that personally going to the said *Nathaniel* and *Sarah* you receive their cognisances aforesaid; and when you have received them distinctly and openly certify your said companions thereof, that then those fines between the parties aforesaid, of the premises aforesaid before you and your companions aforesaid of the Bench aforesaid, may be levied, according to the law and custom aforesaid, and have there then this writ. Witness Ourself at *Westminster* the 20th day of *June* in the 1st year of our reign. *Hungerford*. By the Lord keeper of the great seal of *England*, at the prayer of the plaintiffs. *G. C. S.*

The answer of Creswell Levinz, Knt. to this writ:

And the concord is such, that the within named *Nathaniel* and *Sarah* acknowledge the third parts within written with the appurtenances to be the right of the within named *John* and *Thomas*, as those which the same *John* and the within named *Thomas* have of the gift of the said *Nathaniel* and *Sarah*, and those they have released and quitted claim from them the said *Nathaniel* and *Sarah* and their heirs to the said *John* and *Thomas* and the heirs of the said *John* for ever: And moreover the same *Nathaniel* and *Sarah* have granted for themselves and the heirs of the said *Sarah*, that they will warrant to the said *John* and *Thomas* and to the heirs of the said *John* the said third parts with the appurtenances, against the said *Nathaniel* and *Sarah* and the heirs of the said *Sarah* for ever: And for this, &c. Taken and acknowledged the 30th day of *July* in the first year of the reign of our Lord *James* the Second, now King of *England*, before me *Creswell Levinz*; proclaimed *Trinity* the 1st of King *James* the Second. Rec' 13 s. 4 d.

Ad. Colclough: This is the final concord made in the court of the Lord the King at *Westminster* from the day of the Holy *Trinity* in three weeks, in the 1st year of the reign of *James* the Second, by the Grace of God of *England*, *Scotland*, *France* and *Ireland* King, defender of the faith, &c. from the conquest, before *Thomas Jones*, *Job Charleton*, *Creswell Levinz* and *Thomas Street*, and others of the King's faithful subjects then there present, between *John Cox*, Gent. and *Thomas Axe*, Gent. plaintiffs, and *Nathaniel Cox*, Gent. and *Sarah* his wife, deforceants, of the 3d part of the rectory of *Madderne Parva* and *Penzance* with the appurtenances, and of all and all manner of tithes yearly coming, growing and renewing in *Madderne Parva* and *Penzance* in the county of *Cornwall*, and of the third part of eight messuages with the appurtenances in the parish of *St. Mary Magdalen Milk-street* in *London*, whereof a plea of covenant was summoned between them in the same court, to wit, that the said *Nathaniel* and *Sarah* acknowledge the said third parts with the appurtenances to be the right of him the said *John*, as those which the same *John* and *Thomas* have of the gift of the said *Nathaniel* and *Sarah*, and those they have released and quitted claim from them the said *Nathaniel* and *Sarah* and their heirs to the said *John* and *Thomas* and the heirs of the said *John* for ever: And moreover the said *Nathaniel* and *Sarah* have granted for themselves and the heirs of the said *Sarah*, that they will warrant to the said *John* and *Thomas* and to the heirs of the said *John* the said 3d parts with the appurtenances against the said *Nathaniel* and *Sarah* and the heirs of the said *Sarah* for ever: And for this recognizance, release, quit-claim, warrantry, fine and concord, the same *John* and *Thomas* have given to the said *Nathaniel* and *Sarah* 260 l. sterling, *Cornwall*, *London*, according to the form of the statute; the 1st proclamation was made the 8th day of *July* in *Trinity* term the 1st year of the reign of the King within written; the 2d proclamation was made the 10th day of *November* in *Michaelmas* term in the 1st year of the King within written.

Afterwards, to wit, on *Saturday* next after the *Octave* of *St. Hillary* in that same term, before the Lord the King at *Westminster* comes the said *John Ball* by *John Lilly* his attorney and says, that the said *Nathaniel Cox* and *Sarah* his wife in the fine aforesaid named, at the time of the levying of the fine aforesaid were seised of the said third parts of the tenements aforesaid with the appurtenances in their demean as of fee in the right of the said *Sarah*: And the said *John Ball* farther says, that he is, and at the time of the death of the said *Sarah* deceased was, the son and heir of the same *Sarah*; and that in the record and proceedings aforesaid, and also in the levying of the fine aforesaid, there is manifest error, in this, to wit, that the said *Sarah* in the fine aforesaid named, after the cognizance thereof on the said writs of covenant before the said *Creswell Levinz*, Knt. as aforesaid made, and before the enrolment and recording of the silver and money of the said Lord the King for leave to agree between the parties aforesaid, according to the tenor, form and effect of the fine and concord aforesaid at *London* aforesaid, to wit, in the parish of *St. Mary Magdalen Milk-street* in the ward of *Cripplegate Without*, died: And this he is ready to verify: Wherefore he prays judgment, and that the fine aforesaid may be reversed, annulled and held as intirely void, and that he the same *J. Ball* may be restored to all things which he hath lost by reason of that fine: And the same *J. Ball* prays several writs of the said Lord the now King, to wit, one writ to the sheriff of the county of *Cornwall*, and another writ to the sheriffs of *L.* to be directed, to sum-

Errors assigned, that the cognizors were seised in the right of the wife, who died before the King's silver paid.

mon

Several writs
of *scire facias*
awarded.

The sheriffs
of London re-
turn a *scire*
faci.

Nihil re-
turn'd by the
sheriff of Corn-
wall.

An *alias sci-*
re facias.

The cognizor
pleads, that
his wife was
alive all Tri-
nity term.

Repl. that the
term began
the 15th of
June, and
ended the 8th
of July, the
cognizance ta-
ken the 30th,
and the King's
silver entered
29th of Au-
gust after the
death of the
wife.

mon the said *John Cox* and *Thomas Axe*, and the several tenants of the tenements aforesaid to be before the Lord the King to hear the record, proceedings and transcript aforesaid, and to answer to the errors aforesaid; and they are granted him, &c. whereby as well the sheriff of the county of *Cornwall* as the sheriffs of *London* aforesaid are commanded, that by good, &c. they give notice to the said *John Cox* and *Thomas Axe* and the several tenants of the tenements aforesaid, that they be before the said Lord the King from the day of *Easter* in 15 days, wherefoever, &c. to hear the record and proceedings and transcript aforesaid, and to answer to the errors aforesaid, if, &c. and farther, &c. The same day is given to the said *John Ball*: On which day *Benjamin Thorogood*, Knt. and *Thomas Kinsey*, Knt. sheriffs of *London* aforesaid have return'd, that by virtue of the writ aforesaid to them directed, by *James Bickerstaffe* and *John Doe*, good and lawful men of their bailiwick, they had given notice to the said *Nathaniel Cox*, Gent. tenant of the messuages aforesaid with the appurtenances, that he should be before the Lord the King on the day aforesaid, wherefoever, &c. to hear the record, proceedings and transcript aforesaid, and farther to do and receive as the writ aforesaid in itself commanded and required: And they have farther certified, that there are not, nor is any other tenants or tenant of the messuages aforesaid in their bailiwick to whom they could give notice: And they have farther returned, that the said *Thomas Cox* and *Thomas Axe* had nothing, nor had either of them any thing, in their bailiwick whereby they could give notice to them or either of them, nor were they found, nor was either of them found in the same: And on the same day *Jonathan Rasbleigh*, Esq; sheriff of the county of *Cornwall* hath returned, that by virtue of the writ aforesaid to him directed by *Reginald Hawkey* and *John Doe*, good and lawful men of his bailiwick, he had given notice to *Nathaniel Cox*, Gent. tenant of the rectory and tithes aforesaid, that he should be before the Lord the King on the day aforesaid, wherefoever, &c. to hear the record, proceedings and transcript aforesaid, and farther to do and receive as the writ aforesaid in it self commanded and required: And he hath farther certified to the said Lord the King, that there are not, nor is any other tenants or tenant of the rectory and tithes aforesaid in his bailiwick to whom he could give notice; and he hath farther returned, that the said *John Cox* and *Thomas Axe* had nothing, nor had either of them any thing, in his bailiwick whereby he could give notice to them or either of them, nor were they found, nor was either of them found in the same: And the said *John Cox* and *Thomas Axe* have not come, nor hath either of them come: Wherefore, as before, as well the sheriff of *Cornwall* as the sheriffs of *London* are commanded that by good, &c. they give notice to the said *John Cox* and *Thomas Axe*, that they be before the Lord the King on the morrow of the Holy *Trinity*, wherefoever, &c. to shew in form aforesaid, if, &c. and farther, &c. The same day is given to the said *John Ball*, &c. And the said *Nathaniel* so summoned to the said several writs of *scire facias* in *London*, on the 4th day of plea, by *William Turbill* his attorney comes; whereupon the said *John Ball* as before says, that in the record and proceedings aforesaid, and also in the levying of the fine aforesaid there is manifest error, alledging the errors aforesaid by him above in form aforesaid alledged, and prays that the fine aforesaid, for that error and others being in the proceedings aforesaid, may be reversed, annulled and held as intirely void; and that the said *John Cox* and *Thomas Axe* to the errors aforesaid may rejoin: And the said *Nathaniel* says, that the said *Sarah*, on the said three weeks of the Holy *Trinity* in the first year of the reign of the said Lord the now King above said, on which day the fine aforesaid was levied, as also during the whole term of the Holy *Trinity* aforesaid in the 1st year of the reign of the said Lord the now King above said, in which term the said money given to the said Lord the now King for the said leave to agree was inrolled and entered of record, was surviving and in full life, to wit, at *London* aforesaid in the said parish of *St. Mary Magdalen Milk-street* in the ward of *Cripplegate Within*: And this he is ready to verify: Wherefore he prays judgment, and that the fine aforesaid may be in all things affirmed and remain in its full force and effect. And the said *John Ball* says, that the said *Trinity* term in the 1st year of the reign of the said Lord the now King above said began on the 15th day of *June* and ended the 8th day of *July* in the first year above said, and that after the same 15th day of *July*, to wit, on the 30th day of the same month of *July* in the 1st year above said, the acknowledgment of the fine aforesaid on the said writs of covenant by the said *Nathaniel* and *Sarah* in the fine aforesaid named before the said *Creswell Levinz*, Knt. as aforesaid, was made: And the said *John Ball* farther says, that the entry, inrolment and recording of the silver and money of the said Lord the King for the said leave to agree, was actually and really made on the 29th day of *August* after the said *Trinity* term in the 1st year above said, and not before the same day; and that the said *Sarah* before the said 29th day of *August* in the 1st year above said, at *London* aforesaid in the parish of *St. Mary Magdalen Milk-street* in the ward of *Cripplegate Within*, died: And this he is ready to verify: Wherefore he prays judgment, and that the fine aforesaid for the error aforesaid may be reversed, annulled and held as intirely void; and that he the same *John Ball* may be restored to all things which he hath lost by reason of the said fine. On which said morrow of the Holy *Trinity* before the Lord the King at *Westminster* comes the said *John Ball* by his attorney aforesaid: And the

the said Sheriff of the county of *Cornwall* as before hath returned, that the said *John Cox* and *Thomas Axe* had nothing, nor had either of them any thing in his bailiwick, whereby he could give notice to them or either of them, nor was either of them found in the same; and the said Sheriffs of *London* on the same day as before have returned, that the said *John Cox* and *Thomas Axe* had nothing, nor had either of them any thing in their bailiwick, whereby they could give notice to them or either of them, nor were they or either of them found in the same. The Sheriff of Cornwall returns nihil.

And the said *Nathaniel* says, that the said plea of the said *John Ball* in form aforesaid above in replying to the said plea of the said *Nathaniel* pleaded, and the matter in the same contained, are not sufficient in law to reverse or annul the fine aforesaid, and that he the same *Nathaniel*, to that plea in manner and form aforesaid made hath no necessity, nor is by the law of the land obliged in any manner to answer: And this he is ready to verify: Wherefore for want of a sufficient replication in this behalf the same *Nathaniel* as before prays judgment, and that the fine aforesaid may be in all things affirmed and remain in its full force and effect, &c. Demurrer to the replication.

And the said *John Ball* says, that his plea aforesaid above in replying to the said plea of the said *Nathaniel* pleaded, and the matter in the same contained, are good and sufficient in law to reverse and annul the fine aforesaid: And this the same *John Ball* is ready to verify: Wherefore for that the same *Nathaniel* to the plea aforesaid of the said *John Ball* above in replying pleaded doth not answer, nor the same in any wise deny, the said *John Ball* as before prays judgment, and that the fine aforesaid may be reversed, annulled and held as intirely void; and that he the same *John Ball* may be restored to all things which he hath lost by reason of the said fine. Joinder in demurrer.

And the said *John Cox* and *Thomas Axe* on the same day being solemnly called, by *William Turbill* their attorney, likewise come and say, that the said *Trinity* term in the first year of the reign of the said Lord the now King above said began the 15th day of *June* and ended the 8th day of *July* in the first year above said, and that the said *Sarah* on the said three weeks of the Holy *Trinity* in the first year of the reign of the said Lord the now King above said, on which day the said fine was levied, as also during the whole term of the Holy *Trinity* aforesaid in the first year of the reign of the said Lord the now King above said, in which term the money of the Lord the King for leave to agree was inrolled and entered of record, was surviving and in full life, to wit, at *London* aforesaid in the said parish of *St. Mary Magdalen Milk-street London*, in the ward of *Cripplegate Within*; without that, that the said *Sarah* died before the said three weeks of the Holy *Trinity* in the first year of the reign of the said Lord the now King above said, or before the end of the said *Trinity* term in the first year above said: And this they are ready to verify: Wherefore they pray judgment, and that the fine aforesaid may be in all things affirmed and remain in its full force and effect, &c. The cognizees appear and plead to the other *scire facias*.

And the said *John Ball* says, that the said plea of the said *John Cox* and *Thomas Axe* in form aforesaid above pleaded, and the matter in the same contained, are not sufficient in law to affirm the said fine, and that he the said *John Ball* hath no necessity, nor is by the law of the land obliged, in any manner to answer to that plea in manner and form aforesaid above pleaded: And this he is ready to verify: Wherefore for want of a sufficient answer in this behalf the same *John Ball* as before prays judgment, and that the fine aforesaid may be reversed, annulled and held as intirely void, and that he the said *John Ball* may be restored to all things which he hath lost by reason of the fine aforesaid. Demurrer to the plea.

And the said *John Cox* and *Thomas Axe* say, that their plea aforesaid above pleaded, and the matter in the same contained, are good and sufficient in law to affirm the fine aforesaid: And this the same *John Cox* and *Thomas Axe* are ready to verify: Wherefore for that the same *John Ball* to the plea aforesaid of the said *John Cox* and *Thomas Axe* above pleaded doth not answer, nor hitherto any way deny it, the same *John Cox* and *Thomas Axe* as before pray judgment, and that the fine aforesaid may be in all things affirmed and remain in its full force and effect: And because the court of the Lord the King now here are not yet advised to give their judgment of and upon the premisses, day therefore is given to the parties aforesaid before the Lord the King until from the day of *St. Michael* in three weeks, wheresoever, &c. to hear their judgment of and upon the premisses, because the court of the said Lord the King now here thereof not yet, &c. Joinder in demurrer.

Note; The fine was affirmed Mich. 3 Jac. 2.

*Morris and others and Walker.**Enter'd Mich. 3 Jac. 2. in the Crown-office.*

Error assigned
by a prosecu-
tor *qui com*
on a judg-
ment on an
indictment in
K. B. in *Ire-*
land.

In nullo est
erratum.

Judgment af-
firmed.

Afterwards, to wit, on *Monday* next after three weeks of *St. Michael* in this same term, before the Lord the King at *Westminster* comes the said *Elizabeth Walker*, who prosecutes as well for the Lord the King as for herself, by *John Allen* her attorney, and *oyer* being had of the record and proceedings aforesaid says, that in the record and proceedings aforesaid, as also in the rendition of the judgment aforesaid on the indictment aforesaid in the said court of the said Lord King *Charles* the Second before the late King himself in his kingdom of *Ireland*, there is manifest error, in this, to wit, that the judgment on the verdict aforesaid was given for the said *Edward Morris*, *Henry Bambrick*, *John Bambrick* and the other persons in the indictment aforesaid named, when by the law of the land judgment on that verdict ought to have been given for the said Lord the King against the said *E. M. H. B. J. B.* and the other persons as aforesaid indicted, that they of the trespasses, contempts, riots, routs, force, entries and detentions by force aforesaid should be convicted: And this as well the said *Elizabeth*, who as well, &c. as *R. S. Knt.* attorney general of the Lord the now King, who prosecutes, &c. are ready to verify: Wherefore they pray that the judgment aforesaid, for that error and others being in the record and proceedings aforesaid, and in the rendition of the judgment aforesaid, may be reversed, annulled and held as intirely void; and that the said *Elizabeth* may be restored to all things which she hath lost by reason of the judgment aforesaid; and that the said *E. M. &c.* and the other persons as aforesaid indicted of the trespasses, contempts, riots, routs, force, entries and detentions by force, may be convicted; and that they according to the summons to them as aforesaid given to the errors aforesaid may answer, &c. And the said *E. M. &c.* so as aforesaid summoned by *John Lilly* their attorney come and say, that there is no error either in the record and proceedings aforesaid, or in the rendition of the judgment aforesaid on the indictment aforesaid; and pray likewise, that the court of the said Lord the King now here may proceed to the examination as well of the record and proceedings aforesaid, as of the matters aforesaid above for error assigned; and that the judgment aforesaid may be in all things affirmed: And because the court here are not yet advised to give their judgment of and upon the premisses, day therefore is given as well to the said *E. W.* who as well, &c. and *R. S. Knt.* attorney general of the Lord the King who prosecutes, &c. as to the said *E. M. &c.* in the state as now, &c. until *Monday* next after 15 days of *St. Martin* before the Lord the King at *Westminster*, to hear their judgment thereon. On which *Monday* next after 15 days of *St. Martin*, before the said Lord the King at *Westminster* come as well the said *E. W.* who as well, &c. by her attorney aforesaid, and *R. S. Knt.* attorney general of the now Lord the King, who prosecutes, &c. in his proper person, as the said *E. M. &c.* by their attorney: And as before the said *E.* by her attorney aforesaid, and the said *R. S. Knt.* attorney general of the now Lord the King, who prosecutes, &c. pray judgment, and that the judgment aforesaid, for the error aforesaid and others found and being in the record and proceedings aforesaid, may be revoked, annulled and held as intirely void, and that she the said *E.* may be restored to all things which she hath lost by reason of the judgment aforesaid; and that the said *E. M. &c.* of the premisses aforesaid may be convicted: Whereupon all and singular the premisses being seen, and by the court here fully understood, and mature deliberation being thereon had, it is considered, that the judgment aforesaid, by the said justices of the said Lord the King assigned to hold pleas before the Lord the King in the kingdom of *Ireland* given, be in all things affirmed, and that the record and proceedings aforesaid be remitted; so that such execution and process may be made thereon as according to the law and custom of the kingdom of *Ireland* ought to issue and be made, notwithstanding the writ of error above prosecuted.

The Lady Clanrickard and Fitzgerald, Knt.

2 Jac. 2. in K. B. Roll 120.

THE Lord the King hath sent to his trusty and well beloved counsellor *William Davis*, Knt. his chief justice assigned to hold pleas in the court of the said Lord the King before the King himself in his kingdom of *Ireland*, his writ close in these words directed, to wit, *James* the Second, by the grace of God of *England, Scotland, France* and *Ireland* King, defender of the faith, &c. To our trusty and well beloved counsellor *William Davis*, Knt. our chief justice assigned to hold pleas in our court before us in our kingdom of *Ireland*, greeting: Because in the record and proceedings, and also in the rendition of the judgment of a plea which was before *James Donelan*, Knt. and his companions, justices of the Lord *Charles* the Second our brother, late King of *England*, in the court of the said late King of the Bench in his kingdom of *Ireland*, by the writ of him the said late King between *Helen Fitzgerald*, who was the wife of *John Fitzgerald* of *Dromany* in the county of *Waterford* deceased, demandant, and *Catharine Fitzgerald* tenant in a plea of dower, which said record and proceedings, by reason of error happening, the same late King *Charles* the Second our brother caused to be brought before him the said late Lord the King in our said kingdom of *Ireland*, and the judgment thereof before us is affirmed, and before us in our said kindom of *Ireland* now remaining, as it is said, a manifest error hath happened, to the great damage of *Edward Fitzgerald*, otherwise *Villars*, and the said *Catharine* the wife of the said *Edward*, as by their complaint we have understood: We willing the error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, command you, that if judgment thereof be given and affirmed before you in our said kingdom of *Ireland*, then the record and proceedings aforesaid, with all things touching them, before us under your seal you distinctly and openly send, and this writ, so that we may have them on the morrow of *St. Martin*, wheresoever we shall then be in *England*, that the record and proceedings aforesaid being inspected, we may farther cause to be done therein to correct that error what of right shall be to be done; and give notice to the most Noble *William Earl Clanrickard* and the said *Helen* the wife of the said Earl, that they be then there to prosecute in the plea aforesaid, and farther to do and receive what our court before us in *England* shall consider in the premisses. Witness Ourself at *Westminster* the fifth day of *July* in the 2d year of our reign.

Layton.

The record and proceedings of the plea whereof mention is within made, with all things touching them, before the Lord the King, wheresoever, &c. at the day and place within contained, I send in a certain record to this writ annexed; and I have given notice to the within named *William Earl Clanrickard* and *Helen* his wife, that they be then there to proceed in the plea aforesaid, as I am within commanded.

The answer of *William Davis*.

Pleas before the Lord the King at the King's court of *Hillary* term in the 36th and 37th year of the reign of our Lord *Charles* the Second, by the grace of God of *England, Scotland, France* and *Ireland* King, defender of the faith, &c. Witness *William Davis*.

Savage and Ryves.

THE Lord the King hath sent to his trusty and beloved counsellor *John Bealing*, Esq; his writ close in these words, to wit, *Charles* the Second, by the grace of God of *England, Scotland, France* and *Ireland* King, defender of the faith, &c. To our trusty and well beloved counsellor *John Bealing*, Esq; greeting: Because in the record and proceedings, and also in the rendition of the judgment of a plea which was before *James Donelan*, Knt. and his companions, our justices of the Common Bench in our kingdom of *Ireland*, by our writ between *Helen Fitzgerald*, who was the wife of *John Fitzgerald* of *Dromany* in the county of *Waterford* deceased, demandant, and *Catherine Fitzgerald*, tenant in a plea of dower, as it is said, manifest error hath happened, to the great damage of *Edward Fitzgerald*, otherwise *Villars*, and the said *Catherine* the wife of the said *Edward Fitzgerald*, as by their complaint we have understood: We willing the error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, command you,

you, that if judgment thereon be given, then the record and proceedings of the plea aforesaid, with all things touching them, to us under your seal you distinctly and openly send, and this writ, so that we may have them before us on the morrow of the Purification of the Blessed Virgin *Mary*, wheresoever we shall then be in *Ireland*, that the record and proceedings aforesaid being inspected, we may farther cause to be done therein to correct that error what of right and according to the law and custom of our kingdom of *Ireland* shall be to be done. Witness our well beloved cousin and counsellor *James Duke of Ormond*, lieutenant general and governor general of our kingdom of *Ireland*, at the King's court 17 day of *January* in the 36th year of our reign.

Allowed *John Bealing*.

By virtue of this writ to me directed, the record and proceedings of the plea, whereof mention is within made, with all things touching them, to the most Serene Lord the King I humbly send, as I am within commanded.

John Bealing.

Pleas at the King's court, &c.

Errors assigned in England.

Afterwards, to wit, on *Monday* next after the morrow of *St. Martin* in this same term, before the Lord the King at *Westminster* come the said *E. F.* and *C.* his wife by *J. H.* their attorney,, and say, that in the record and proceedings aforesaid, and also in the rendition of the judgment aforesaid in the said court of our Lord *Charles* the Second, the late King, of the Bench, there is manifest error, in this, to wit, that by the record aforesaid it appears, that the judgment aforesaid in form aforesaid given was given for the said *A.* against the said *K.* when by the law of the land of the said kingdom of *Ireland* that judgment ought to have been given for the said *Catharine* against the said *Helen*; therefore in that it is manifestly erroneous: There is error also in the affirmance of the judgment aforesaid, in this, to wit, that in the record and proceedings in the court of the said Lord the late King, called the King's court in the kingdom of *Ireland* aforesaid, by the writ of error of the said late Lord the King removed, and in the court of the Lord *James* the Second the now King, called the King's court in his kingdom of *Ireland* now remaining, it appears that the judgment aforesaid in form aforesaid given, and so as aforesaid removed by the court of the Lord the now King, called the King's court, is in all things affirmed, when by the law of the land of the kingdom of *Ireland* aforesaid that judgment ought to have been reversed, &c. and prays that the court of the said Lord the King here may proceed to the examination as well of the record and proceedings, as of the errors aforesaid; and that the judgment aforesaid, for the errors aforesaid and others being in the record and proceedings aforesaid, may be reversed, annulled and held as intirely void; and that the said *William Earl Clanrickard*, and the Lady *Helen* his wife, to the errors aforesaid may rejoice.

In nullo est erratum.

And the said *William Earl Clanrickard* and the Lady *Helen* his wife, as to the matters aforesaid above for error assigned, say that there is no error, neither in the record and proceedings aforesaid, nor in the rendition, nor in the affirmance of the judgment; and pray likewise, that the court of the Lord the King here may proceed to the examination as well of the record and proceedings aforesaid, as of those matters for error above assigned; and that the judgment aforesaid may be in all things affirmed, &c. And because the court of the said Lord the King here will advise before they give judgment of and upon the premises, day therefore is given to the parties aforesaid before the Lord the King wheresoever, &c. to hear their judgment thereon, because the court of the said Lord the King here thereof not yet, &c.

Read and Waldron.

Hill. 6 W. 3. Roll 249.

Afterwards, to wit, on *Wednesday* next after the Octave of *St. Hillary* in this same term, before the Lord the King at *Westminster* comes the said *Richard Waldron* by *W. W.* his attorney, and says, that in the record and proceedings aforesaid, as also in the rendition of the judgment aforesaid, there is manifest error, in this, to wit, that by the record aforesaid it appears, that the judgment aforesaid in form aforesaid given was given for the said *Richard Read*, otherwise *Covey*, against him the said *Richard Waldron*, when by the law of the land of this kingdom of *England* that judgment ought to have been given for the said *R. Waldron* against the said *R. Read*, otherwise *Covey*; therefore in that it is manifestly erroneous: There is error also in this, to wit, that by the record aforesaid it appears, that

Richard

Richard Read, otherwise *Covey*, in the said *Trinity* term in the 5th year of the reign of the Lord *William* now King and the Lady *Mary* late Queen of *England*, &c. above said, by the said *Thomas Pryor* as his *procbein amy*, declared against the said *Richard Waldron* in the plea above said; nevertheless the said *Thomas Pryor* had not any admission of record to warrant his appearance above said for the said *Richard Read*: And hereupon the said *Richard Waldron* prays a writ of the said Lord the King to *George Treby*, Knt. chief justice of the Common Bench above said to be directed, to certify the said Lord the King more fully the truth thereof; and to him it is granted, &c. whereby the said *George Treby*, Knt. chief justice of the Common Bench above said, is commanded, that the rolls and other memorandums of such appearances, being in his custody of record of the said *Trinity* term in the 5th year above said, being searched, what he shall find thereof in the same between the parties above said in the plea above said he without delay certify to the Lord the King, wheresoever, &c. together with the writ to him therefore directed: Which said *George Treby*, Knt. the chief justice above said, by virtue of the writ above said to him therefore directed, hath certified to the said Lord the King at *Westminster*, that the rolls and other memorandums of the said *Trinity* term in the 5th year above said, being in his custody of record, being searched, he hath not yet found that the said *Thomas Pryor* hath any admission of record to warrant his appearance for the said *Richard Read*, otherwise *Covey*, as his *procbein amy* against the said *Richard Waldron* in the said plea; which said writ, together with the return thereof, is filed before the Lord the King at *Westminster* among the records without day of this term; and he prays that the judgment above said, for those errors and others being in the record and proceedings above said may be reversed, annulled and held as intirely void, and that he the said *Richard Waldron* may be restored to all things that he hath lost by reason of the judgment above said; and that the said *Richard Read*, otherwise *Covey*, to the errors above said may rejoin, &c.

Cartiorari prayed to the C. J. to certify the admission.

Who certified there was none.

And the said *Richard Read*, otherwise *Covey*, by *John Lilly* his attorney comes and says, *in nullo est* that there is no error either in the record and proceedings above said, or in the rendition of the judgment above said, and prays, that the court of the said Lord the King now here may proceed to the examination as well of the record and proceedings above said, as of the matters above said above for error assigned, and that the judgment above said may be in all things affirmed: But because the court of the said Lord the King now here are not yet advised to give their judgment of and upon the premisses, day therefore is given the parties above said before the Lord the King until from the day of *Easter* in 15 days, wheresoever, &c. to hear their judgment of and upon those premisses, because the court of the said Lord the King now here thereof not yet, &c. On which day before the Lord the King at *Westminster* come the parties above said by their attornies above said: And because it seems necessary and expedient to the court of the Lord the King now here, before they proceed farther in this behalf, to be certified, whether there is any record of the admission of the said *Thomas Pryor* to warrant his appearance as *procbein amy* for the said *Richard Read*, otherwise *Covey*, against the said *Richard Waldron* in the plea above said, in the said court of the said Lord the King and of the said Lady the late Queen of the Bench at *Westminster* inrolled of record of *Trinity* term in the 5th year of the reign of the said Lord the now King and of the said late Queen, or not, *George Treby*, Knt. chief justice of the said Lord the King of the Bench at *Westminster* above said, is commanded, that the records of admissions of infants to prosecute in the said court of the Bench by their *procbein amy* of the said *Trinity* term in the 5th year of the reign of the said Lord the now King and of the said late Queen being searched, and what he shall find of the entry of that admission above said, as fully and intirely as it remains before him, he certify to the said Lord the King, wheresoever, &c. without delay, together with the writ of the said Lord the King to him therefore directed, &c. Which said *George Treby*, by virtue of the writ of the said Lord the King to him directed, hath certified to the said Lord the King, that the records of the entries of the admission of infants to prosecute in the said court of the Bench of the said *Trinity* term in the 5th year of the reign of the said Lord the now King and of the said late Queen being searched, he hath found an entry of record of a certain admission of the said *Thomas Pryor* to warrant his appearance as *procbein amy* of the said *Richard Read*, otherwise *Covey*, against the said *Richard Waldron* in the plea above said, which follows in these words, to wit, Pleas inrolled at *Westminster* before *George Treby*, Knt. and his companions, justices of the Lord the King and of the Lady the Queen of the Bench, of *Trinity* term in the 5th year of the reign of the Lord *William* and the Lady *Mary*, by the grace of God of *England*, *Scotland*, *France* and *Ireland* King and Queen, defenders of the faith, &c. Roll 1165.

Another *cartiorari* awarded to inform the court. Now; this was by rule of court, without which you cannot have a *cartiorari* after issue joined.

The *cartiorari* returned with the record of the admission.

The admis-
sion.

North'ton, to wit. **I**T is granted by the court of the Lord and Lady the now King and Queen, that *Thomas Pryor*, Gent. may prosecute for *Richard Read*, otherwise *Covey*, who is under the age of 21 years, as *prochein amy* of the said *Richard Read*, otherwise *Covey*, against *Richard Waldron* in a plea of trespass, assault and imprisonment: And hereupon the said *Richard Waldron*, as before, prays that the judgment aforesaid, for the errors aforesaid and others being in the record and proceedings aforesaid, may be revoked, annulled and held as intirely void, and that he may be restored to all things that he hath lost by reason of the judgment aforesaid: And because the court of the said Lord the King now here are not yet advised to give their judgment of and upon the premisses, day therefore is given to the parties aforesaid until wheresoever, &c. to hear their judgment of and upon the premisses, because the court of the said Lord the King now here thereof not yet, &c.

Afterwards the judgment was affirmed.

Burr and Atwood.

Hill. 9 W. 3.

Error brought
by the bail
tam quam,
quashed as to
the principal
judgment.

ON which day before the Lord the King at *Westminster* comes as well the said *James Burr* in his proper person, as the said *John Atwood* by his attorney aforesaid: Whereupon the writ of error aforesaid being seen, and by the court here fully understood, it is considered, that the said writ of error, as to the principal judgment aforesaid against the said defendant *Drewett* in the same principal judgment at the suit of the said plaintiff *Atwood*, be only quashed; but as to the said joinder in error between the said *James Burr* and *John Atwood*, because the court of the said Lord the King now here are not yet advised to give their judgment of and upon the premisses, day therefore is given to the said *James Burr* and *John Atwood* before the Lord the King, &c.

Edwards and Luttrell.

Error on a
judgment in
K. B. in *Ire-*
land in the
reign of J. 2.
in a plea com-
menced in the
reign of C. 2.

JAMES the Second, by the grace of God of *England, Scotland, France and Ireland* King, defender of the faith, &c. To our trusty and well beloved counsellor *William Davis*, Knt. our chief justice assigned to hold pleas in our court before us in *Ireland*, greeting: Because in the record and proceedings of a certain plea which was in the court of our most dear brother *Charles* the Second, late King of *England*, &c. before the late King himself in *Ireland*, by bill, without the writ of the said late King, between *Nicholas Luttrell*, plaintiff, and *Richard Edwards*, Esq; defendant, in a certain plea of trespass and ejectment, and also in the rendition of the judgment of the plea aforesaid, after the death of the said late King in our court before us in *Ireland*, as it is said, manifest error hath happened, to the great damage of the said *Richard*, as by his complaint we have understood: We willing the error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, command you, that if judgment be therein given, then the record and proceedings aforesaid, with all things touching them, to us under your seal you distinctly and openly send, and this writ, so that we may have them on the Octave of the Purification of the Blessed *Mary*, wheresoever we shall then be in *England*, that the record and proceedings aforesaid being inspected, we may farther cause to be done therein to correct that error what of right shall be to be done; and give notice to the said *Nicholas* that he be then there to prosecute in the plea aforesaid, and farther to do and receive what our court before us in *England* shall consider in the premisses. Witness Ourself at *Westminster* 18th day of *December* in the 1st year of our reign.

Allowed.

The return.

The record and proceedings whereof mention is within made, with all things touching them, before the Lord the King, wheresoever, &c. in a certain record to this writ annexed, I most humbly send; and I have given notice to the within mentioned

mentioned *Nicholas Luttrell*, that he be then there to prosecute, &c. as I am within commanded.

The answer of *W. Davis*.

The Earl of Kildare and Sbaen, Knt.

WILLIAM the Third, &c. To our trusty and well beloved counsellor *Richard Pyne*, Knt. our chief justice assigned to hold pleas in our court before us in our kingdom of Ireland, greeting: Because in the record and proceeding, and also in the rendition of the judgment of a plea which was in the court of the Lord *Charles* the Second, late King of England, before the late King himself in the kingdom of Ireland, by bill between *James Sbaen*, Knt. and *Wentworth Fitzgerald*, Earl of *Kildare*, otherwise called *Wentworth Fitzgerald*, Earl of *Kildare* in the kingdom of Ireland, as well of a debt of 3000*l*. which the said *James Sbaen* hath in the same court recovered against the said *Wentworth*, as of 28*s*. 6*d*. which to the said *James* in the same court were adjudged for his damages which he had as well by reason of the detention of the debt aforesaid, as for his costs and charges by him about his suit in that behalf expended, whereof he is convicted; which said *Wentworth*, Earl of *Kildare*, and *James Sbaen*, afterwards died, as by the suggestion of *John*, now Earl of *Kildare*, son and heir of the said *Wentworth*, Earl of *Kildare*, we have understood, as it is said, manifest error hath happened, to the great damage of him the said *John*, now Earl of *Kildare*, the said son and heir of the said *Wentworth*, now Earl of *Kildare*, as by his complaint we have understood; We willing the error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, command you, that if judgment be therein given, then the record and proceedings of the plea aforesaid, with all things touching them, to us under your seal you distinctly and openly send, and this writ; so that we may have them from the day of the Holy Trinity in three weeks, wheresoever we shall then be in England, that the record and proceedings aforesaid being inspected, we may farther cause to be done therein to correct that error what of right shall be to be done; and give notice to *Arthur Sbaen*, Bart. administrator of the goods and chattels which belonged to the said *James Sbaen* who died intestate, as it is said, that he be then there to proceed in the plea aforesaid, and farther to do and receive what our said court shall consider in the premises. Witness Ourselves at Westminster the 8th day of May in the 11th year of our reign.

Terry.

Allowed *R. Pyne*.

The record and proceedings of the plea whereof mention is within made, with all things touching them, before the Lord the King, wheresoever, &c. at the day and time within contained, I send in a certain record to this writ annexed; and I have given notice to the within named *Arthur Sbaen*, Bart. that he be then there to proceed in the plea, as I am within commanded.

So I answer *R. Pyne*.

Hanmer and his wife and Jacob.

JAMES, &c. To our trusty and well beloved counsellor *William Davis*, Knt. our chief justice assigned to hold pleas in our court before us in Ireland, greeting: Because in the record and proceedings, as also in the rendition of the judgment of a plea which was before *John Keating*, Esq; and his companions, justices of the Lord *Charles* the Second, late King of England, &c. in the court of the said late King, between *Edward Hanmer* and *Mary* his wife, and *Richard Jacob*, late of *Tullagbmore* in Queen's county, Gent. of a certain trespass on the case to the same *Edward* and *Mary* by the said *Richard* done, which said record and proceedings, by reason of error happening, the same late King caused to be brought before him the said late King *Charles* the Second in the said kingdom of Ireland, and the judgment therein before us is affirmed, and before us in our said kingdom of Ireland now remains, as it is said, manifest error hath happened, to the great damage of the said *Richard*, as we have by his complaint understood: We willing the error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, command you, that

that if judgment be therein given, then the record and proceedings afore said, with all things touching them, to us under your seal you distinctly and openly send, and this writ, &c. to Witness Ourselves, &c.

Huckell and Higginson.

Error in Parliament on a judgment in C. B. affirmed in K. B.

GEORGE, &c. To our trusty and beloved *John Pratt*, Knt. our chief justice assigned to hold pleas before us, greeting: Because in the record and proceedings, and also in the rendition of the judgment of a plea which was before *Peter King*, Knt. and his companions, then our justices of the Bench, by our writ between *Thomas Huckell* the elder, and *T. H.* the younger, and *Gilbert Higginson*, of a certain trespass on the case to the same *Thomas* and *Thomas* by the said *Gilbert* done, as also in the affirmance of the same judgment in our court before us, as it is said, manifest error hath happened, to the great damage of the said *Gilbert*, as we have by his complaint understood: We willing the error, if any hath been, should be duly corrected, and full and speedy justice done to the parties afore said in this behalf, command you, that if judgment therein be given and affirmed, then the record and proceedings afore said, with all things touching them, to us in our present Parliament at the next sessions, to wit, on the 8th day of *December* next ensuing to be held, you distinctly and openly send, and this writ, that the record and proceedings afore said being inspected, we may farther cause to be done therein, by the assent of the Lords Spiritual and Temporal being in the same Parliament, to correct that error what of right and according to the law and custom of *England* shall be to be done. Witness Ourselves at *Westminster* the 28th day of *November* in the 7th year of our reign.

Fjlb.

homine

Homine replegiando.

More and Watts.

Mich. 12 W. 3. Roll 81.

England, to wit. **T**HE Lord the King hath sent to the sheriff of *Middlesex* his writ The entry of close in these words, to wit, *William* the Third, by the grace a *nonpro* in a of God of *England, Scotland, France* and *Ireland* King, defen- *homine reple-* giando cor- rected by L. C. J. der of the faith, &c. To the sheriff of *Middlesex*, greeting: Whereas we have often commanded you, that you should justly and without delay cause to be replevied *Thomas Holt*. *More*, whom *Benjamin Goffe, John Dykes* and *Daniel Watts* have taken, and taken keep, as Salk. 581. it is said, unless he be taken by our special command, or of our chief justice, or for the death of a man, or for our forest, or for any other offence for which according to the custom of *England* he is not replegiabie, or should signify to us the cause why you would not, or could not, execute our commands formerly to you therefore directed, and you not regarding our commands aforesaid, as we have understood, to replevy the said *Thomas*, or at least to signify to us the cause why you would not, or could not, do it, have hitherto neglected, to the manifest contempt of us and our commands aforesaid, and to the no small damage and grievance of the said *Thomas*, at which we are greatly surprised and displeased; yet we command and firmly injoin you, that you cause the said *Thomas* to be replevied according to the tenor of our commands aforesaid to you before for that purpose directed, or be you yourself before us from the day of *St. Michael* in three weeks, wheresoever we shall then be in *England*, to shew why you have contemned to execute our commands so often to you therefore directed, and have there this writ. Witness *Thomas* Archbishop of *Canterbury* and the rest of the keepers and justices of our kingdom at *Westminster* 14th day of *October* in the 12th year of our reign. 23.

Cesar.

The return of which said writ follows in these words: This writ and two other writs to The return. replevy the within named *Thomas More* were delivered to me together and at once after Salk. 706. the date of this writ and not before; and I farther most humbly certify to the Lord the King, that before the coming of this writ the said *Thomas More* was cloined by the within named *Benjamin Goffe, John Dykes* and *Daniel Watts* to places intirely unknown to me, so that I cannot replevy the said *Thomas More* according to the command of this writ.

The answer of *R. B. Esq;* and *H. F. Knt.* sheriff.

Upon which the said Lord the King hath sent to the sheriff of *Middlesex* his other writ Writ of capias close in these words, to wit, *William* the Third, by the grace of God of *England, Scotland, France* and *Ireland* King, defender of the faith, &c. To the sheriff of *Middlesex*, greeting: Whereas by our several writs we have often commanded you, that you should justly and without delay cause *Thomas More* to be replevied, whom *Benjamin Goffe, John Dykes* and *Daniel Watts*, have taken, and taken detain, unless he should be taken by our special command or of our chief justice, or for the death of a Man, or for our forest, or for any other offence for which according to the custom of *England* he is not replegiabie; and whereas by our other writ we have commanded and firmly injoined you, that you should cause the said *Thomas* to be replevied according to the tenor of our writs aforesaid to you before for that purpose directed, or you yourself should be before us from the day of *St. Michael* in three weeks last past,

Salk. 705.

past, wheresoever we should then be in *England*, to shew why you have contemned to execute our commands aforesaid so often to you therefore directed, and you at that day have returned to us, that the said *Thomas More*, before the coming of that writ, was elained by the above named *Benjamin Goffe*, *John Dykes*, and *Daniel Watts*, to places intirely unknown to you, so that you could not replevy the said *Thomas More* according to the command of that writ: Therefore we command you, that you take in *withernam* the said *Benjamin*, *John* and *Daniel*, and them so taken in your power in safe custody keep, until they will freely deliver the said *Thomas* by them in form aforesaid elained, as by your return you have to us certified; and certify to us on the Octave of *St. Martin* next ensuing, wheresoever we shall then be in *England*, how you shall have executed this our command, that we may farther cause to be done therein what of right and according to the law and custom of our kingdom of *England* we shall think fit to be done, and have then there this writ. Witness *J. Holt*, Knt. at *Westminster* 23d day of *October* in the 12th year of our reign.

Deane.

The return.

The return of which said writ follows in these words, to wit, by virtue of this writ to me directed, I have taken in *withernam* the body of the within named *Daniel Watts*, whose said body so taken in my power in safe custody I have hitherto kept, and yet do keep, as I am within commanded; and I do farther most humbly certify to the Lord the King, that neither the said *Daniel* nor the within named *Benjamin* and *John* have hitherto delivered, or hath either of them delivered, the within named *Thomas*, and that the same *Benjamin* and *John* are not found, nor is either of them found, in my bailiwick.

The answer of { *R. B. Knt.*
and
F. H. Knt. } Sheriff.

Plaintiff non-
suited.

On which day, to wit, on the said Octave of *St. Martin*, before the Lord the King at *Westminster*, the said *Daniel Watts* was brought here into court under the custody of the said sheriff of *Middlesex* by virtue of the said writ of *capias in withernam*, and offered himself against the said *Thomas More*, and the said *Thomas More*, being solemnly called doth not come, nor farther prosecute his writ of *homine replegiando* aforesaid: Therefore it is considered, that the said *Thomas More* be in mercy; and the said *Daniel Watts*, *Benjamin Goffe* and *John Dykes*, may go thereof without day, &c.

But

Hue and cry.

Croxall, who as well, &c. against The inhabitants of the hundred of Hemlingford.

Pleas before the Lord the King at Westminster of Hillary term in 31st and 32d year of the reign of the Lord Charles the Second, now King of England, &c.

Warwick, to wit. **T**HE men, inhabitants of the hundred of Hemlingford in the county aforesaid, were attached to answer as well the Lord the now King as *Josiah Croxall*, who as well for the Lord the King as for himself prosecutes in a plea, why whereas in a statute made in the Parliament of the Lord *Edward* the First, late King of England, held at *Winchester* in the 13th year of his reign, it is among other things ordained, For as much as from day to day robberies, murders, burnings and theft, were then oftener used than they had been before, and felons could not be attainted by the oath of jurors, which had rather suffer strangers to be robbed, and so pass without pain than to indict the offenders, of whom great part were people of the same country, or at least, if the offenders were of another country, the receivers were of places near; and they did the same, because an oath was not given unto jurors of the same country where such felonies were done, and to the restitution of damages before then no pain had been limited for their concealment and laches: The same late King, for to abate the power of felons, hath established a pain in that case, so that from thenceforth, for fear of the pain more than for fear of any oath, they should not spare any, nor conceal any felonies; and hath commanded, that cries should be solemnly made in all countries, hundreds, markets, fairs and all other places where great resort of people should be, so that none should excuse himself by ignorance, that from thenceforth every country should be so well kept, that immediately, upon such robberies and felonies committed, fresh suit should be made from town to town, and from country to country; likewise, when need required, inquests should be made in towns, by him that should be Lord of the town, and after in the hundred, and in the franchise, and in the county, and sometime in two, three or four counties, in case when felonies should be committed in the marches of shires, so that the offenders might be attainted; and if the country would not answer for the bodies of such manner of offenders, the pain should be such, that every country, that is, to wit, the people dwelling in the country, should be answerable for the robberies done, and also the damages; so that the whole hundred, where robbery should be done, with the franchises being within the precinct of the same hundred, should be answerable for the robberies done; and if the robbery was done in division of two hundreds, both the hundreds and the franchises within them should be answerable; and longer term should not the country have after the robbery or felony done than 40 days, within which them behoveth to make gree of the robbery or of the offence, or that they answer of the bodies of the offenders, as in the statute aforesaid more fully is contained. And whereas a certain malefactor, to the said *Josiah* and *Robert Keeling*, servant of him the said *Josiah*, unknown, on the 15th day of May in the 13th year of the reign of our Lord the now King, at the parish of *Shustock* in the county aforesaid in the King's highway there, and within the hundred of *Hemlingford* aforesaid, with force and arms on him the said *Robert Keeling* did make an assault, and 15 l. of lawful money of England in monies numbered (being the money of him the said *Josiah Cronball* his master) did take, rob and carry away, against the peace of the said Lord the now King; and the same

For a robbery committed on the servant Townsend's Tables 65. Pract. Reg.

13 E. 1. c. 11

C. 2.

28 E. 3. c. 11.

Robbers unknown took 15 l. of the master's money.

Robert

Hue and cry
made and no-
tice given.
27 l. c. 13.
§ 11.

Oath made of
the robbery.

That the in-
habitants have
made no sa-
tisfaction, &c.

The robbery
set forth.

Not guilty.
1 Saund. 80.

Robert Keeling, immediately after the robbery and felony aforesaid committed, at *Sbustock* aforesaid in the county aforesaid, which said town is within the hundred of *Hemlingford* aforesaid where the robbery aforesaid so as aforesaid was committed, hue and cry of the robbery aforesaid did make, and then and there notice to the inhabitants of *Sbustock* aforesaid of that robbery did give; and after that robbery committed, and within 20 days next before the day of the issuing of the writ original of him the said *Josiah*, the said *Robert Keeling*, before *Charles Adderley*, Knt. one of the justices of the said Lord the King assigned to preserve the peace in the county of *Warwick*, inhabiting at *Hamsball* in the county of *Warwick* aforesaid near the hundred of *Hemlingford*, and near the said place where that robbery was committed, was examined on his corporal oath according to the form of the statute at *Westminster* in the county of *Middlesex* in the 27th year of the reign of the Lady *Elizabeth*, late Queen of *England*, &c. thereof made and provided; and the same *Robert* on his oath aforesaid did then say, that he did not know the party that committed that robbery, and after that robbery committed 40 days are now past: Nevertheless the said men, inhabitants within the said hundred of *Hemlingford*, amends for the robbery aforesaid committed to the said *Josiah* have not yet made, nor the body of the felon and malefactor aforesaid have taken, nor for his body hitherto have answered, but that felon and malefactor have permitted to escape in contempt of the said Lord the now King, and to the great damage of him the said *Josiah*, and against the form of the statute aforesaid: And whereof the same *Josiah*, who as well for the Lord the King as for himself prosecutes, by *John Lilly* his attorney complains, that whereas a certain malefactor, to wit, a man to the same *Josiah*, and the said *Robert* the servant of him the said *Josiah*, unknown; on the 15th day of *May* in the 31st year of the reign of the said Lord the now King, with force and arms, to wit, swords, staves and knives, on him the said *Robert Keeling*, at *Sbustock* aforesaid in the county aforesaid, in the King's highway there, and within the hundred of *Hemlingford* aforesaid, did make an assault, and 15 l. of lawful money of *England* in monies numbered, (being the money of him the said *Josiah Croxall* his master,) then and there found, feloniously from the said *Robert* took, robbed and carried away, against the peace of the said Lord the now King, &c. And the same *Robert*, immediately after the felony and robbery aforesaid committed, at *Sbustock* aforesaid in the county aforesaid, being within the said hundred of *Hemlingford*, hue and cry of that robbery did make, and then and there notice to the inhabitants of the same town of *Sbustock* of that robbery did give; and after that robbery committed, and within twenty days next before the day of the issuing of the writ original of him the said *Josiah*, the said *Robert Keeling* before *Charles Adderley*, Knt. one of the justices of the said Lord the King assigned to preserve the peace in the county aforesaid inhabiting at *Hamsball* in the county aforesaid near the hundred of *Hemlingford*, and near the said place where that robbery was committed, was examined on his corporal oath according to the form of the statute at *Westminster* in the county of *Middlesex* in the 27th year of the reign of the Lady *Elizabeth*, late Queen of *England*, &c. thereof made and provided, and the same *Robert* on his oath aforesaid then said, that he did not know the party that committed that robbery, and after that robbery committed forty days are now past: Nevertheless the same men, inhabitants within the said hundred of *Hemlingford*, amends for the robbery aforesaid committed to the said *Josiah* have not yet made, nor the body of the felon and malefactor aforesaid have taken, nor for his body hitherto have answered, but that felon and malefactor have permitted to escape, in contempt of the said Lord the now King and to the great damage of him the said *Josiah*, and against the form of the statute aforesaid; whereby the same *Josiah* says that he is prejudiced, and hath damage to the value of 30 l. And therefore he produces the suit, &c.

And the said men, inhabitants within the hundred of *Hemlingford* aforesaid, by *H. H.* their attorney come and defend the force and injury, when, &c. and whatsoever, &c. and say, that they are not guilty of the premisses above charged on them against the form of the statute aforesaid, as the said *Josiah*, who as well, &c. above against them complains: And of this they put themselves on the country: And the said *Josiah*, who as well, &c. likewise: And upon this the said *Josiah* says, that the said men, inhabitants within the hundred of *Hemlingford* aforesaid where the robbery aforesaid was committed, are parties defendant against whom the said *Josiah*, who as well, &c. in form aforesaid above complains; and for that reason he prays a writ of the Lord the King to the sheriff of the county aforesaid to be directed, to cause to come here 12, &c. of the neighbourhood of the hundred of *Knightslowe* in the county aforesaid, which said hundred of *Knightslowe* is the next hundred in the same county to the said hundred of *Hemlingford* aforesaid, to try the issue aforesaid above joined: And because the said men, inhabitants within the said hundred of *Hemlingford*, do not deny it, it is granted him: Therefore the sheriff is commanded, that he cause to come on the Octave of the Purification of the Blessed *Mary*, wherefoever, &c. 12, &c. of the neighbourhood of the said hundred of *Knightslowe* aforesaid, by whom, &c. and who neither, &c. to recognise, &c. because as well, &c.

Plai

Pleas before the Lord the King at Westminster of Hillary term in the 31st and 32d year of the reign of the Lord Charles the Second now King of England, &c.

Warwick, to wit. **T**HE jury between *Josiah Croxall*, who as well for the same Lord the King as for himself prosecutes, by his attorney, plaintiff, and the men inhabitants within the hundred of *Hemlingford* in the county aforesaid in a plea of hue and cry, is respited before the Lord the King at *Westminster* until from the day of *Easter* in 15 days, wheresoever, &c. unless the justices of the Lord the King assigned to take assises in the county aforesaid shall first come on *Saturday* the 20th day of *March* at *Warwick* in the county aforesaid, by the form of the statute, &c. for want of jurors, &c. Therefore let the sheriff have the bodies, &c. The same day is given to the parties aforesaid, there, &c. And be it known, that the writ of the Lord the King thereof the 12th day of *February* in this same term before the Lord the King at *Westminster* was delivered of record to the under-sheriff of the county aforesaid, in form of law to be executed at his peril, &c.

Information.

The King against Coppleson, one of the Lord Mountague's witnesses.

Trin. 9 W. 3. at the bar.

Midd', to wit. **B**E it remembered, that *Samuel Abry*, Knt. coroner and attorney of the Lord the King before the King himself, who for the Lord the King in this behalf prosecutes, in his proper person comes here into the court of the said Lord the King before the King himself at *Westminster* on *Saturday* next after 15 days of the Holy *Trinity* in this same term; and for the same Lord the King gives the court here to understand and be informed, that otherwise, to wit, in *Hillary* term in the 7th year of the reign of the Lord *William* the Third, by the grace of God of *England, Scotland, France* and *Ireland* King, defender of the faith, &c. in the court of the said Lord the King of the Bench at *Westminster* in the county of *Middlesex*, before *George Treby*, Knt. and his companions, then justices of the same Lord the King of the Bench aforesaid there, one *Robert Rickards* had impleaded one *Henry Cornesforth*, late of *Enfield* in the county aforesaid, yeoman, in a plea why he took the cattle, goods and chattels of him the said *Robert*, and them unjustly had detained against surety and pledges, &c. And whereon the same *Robert* by *Christopher Harris* his attorney then complained, that the said *Henry* on the 26th day of *September* in the 7th year of the reign of the Lord *William* the Third, now King of *England*, &c. at the parish of *Enfield* aforesaid in the county aforesaid, in a certain place there called *Enfield Hills* had taken the cattle, goods and chattels of him the said *Robert*, to wit, nine cows, one bull, 5 calves, one great bras copper, 20 quarters of wheat, two bushels of wheat threshed, 60 quarters of oats, 30 load of hay, four carts, one wain, two ploughs and 30 load of oats, and them unjustly had detained against surety and pledges until, &c. whereby the said *Robert* then said that he was prejudiced, and had damage to the value of 40*l*. And therefore he then produced the suit, &c. And the said *Henry* by C. D. his attorney then came and defended the force and injury

Consentance as
bailiff. injury when, &c. and as bailiff of *Ralph* Earl of *Mountague* and *Elizabeth* his wife well acknowledged the taking of the cattle, goods and chattels aforesaid in the said place in which, &c. and justly, &c. Because he then said that long before the said time of the taking of the cattle, goods and chattels aforesaid, *Christopher* late Duke of *Albermarle* in his life-time was seised in his demesne as of fee of and in one messuage and 377 acres of land with the appurtenances in the said parish of *Enfield*, and in the parish of *Edmonton* in the county of *Middlesex*, whereof the said place called *Enfield Hills* in which, &c. then was, and the said time when, &c. and also for time immemorial had been parcel; and being so thereof seised the said Duke before the said time when, &c. to wit, on the 1st day of *November* in the year of the Lord 1678, at *Enfield* aforesaid had demised to *John Bathurst*, Esq; the tenements aforesaid with the appurtenances whereof, &c. by the name of all that tenement, and the barns and stables thereto belonging, and all those 289 acres of land, more or less, situate, lying and being in the parishes of *Edmonton* and *Enfield*, then late in the possession of Captain *Paskfield* then lately deceased; and all those 40 acres of land, more or less, situate, lying and being in the parish of *Enfield* or *Edmonton*, late in the possession of *Fench Waters* then lately deceased; and also all those 48 acres of land, more or less, situate, lying and being in the parish of *Edmonton* or *Enfield*, then late in the possession of *Robert Brown*; all which said premises were part and parcel of a park called *Enfield park*; except and always reserved out of the said demise to the said *Christopher* Duke of *Albermarle*, his heirs and assigns, all timber-trees then standing, growing or being, or which at any time then after should be standing, growing or being in or upon the said demised premises, or in or upon any part or parcel thereof, together with free liberty, full power and authority for the same *Christopher* Duke of *Albermarle*, his heirs and assigns, for themselves and their friends and servants, or without, in his or their company from time to time and at all times during the said term, with or without horses, hawks or hounds, at his and their will and pleasure, to hunt and hawk in the said demised premises or any part thereof, at open and seasonable times, he or they doing as little hurt and damage to the corn and fences there as they conveniently could; To have and to hold the tenements aforesaid with the appurtenances as aforesaid demised, whereof, &c. to the said *John Bathurst*, his executors, administrators and assigns, from the feast of *St. Michael* the Archangel then last past for and during the term of 21 years from thence next ensuing, and fully to be compleat and ended; Yielding and paying therefore yearly and every year during the said term to the said late Duke, his heirs or assigns, at or in the dwelling-house of the said Duke, commonly called or known by the name of *Albermarle house*, situate, lying and being near a place called *St. James's* in the county of *Middlesex*, or into the hands of the said Duke's receiver for the time being, the yearly rent of 140 *l.* of lawful money of *England*, at the feast of the Annunciation of the Blessed Virgin *Mary* and *St. Michael* the Archangel, by even and equal portions; by virtue of which said demise the said *John* afterwards, to wit, on the same 1st day of *November* 1678 aforesaid, into the tenements aforesaid with the appurtenances, whereof, &c. to him as aforesaid demised, had entered and was thereof possessed, the reversion thereof to the said Duke, his heirs and assigns belonging; and the said *John* of the tenements aforesaid with the appurtenances, whereof, &c. as aforesaid being possessed, and the said Duke of the said reversion of those tenements in form aforesaid being seised, the same Duke afterwards, to wit, on the 4th day of *July* 1687, at *Enfield* aforesaid, had made his last will and testament in writing, and by his same last will had given and devised to the said *Elizabeth* then his wife, (among other things) the said reversion of the said tenements with the appurtenances, whereof, &c. To have and to hold to the same *Elizabeth* and her assigns for and during the term of the natural life of the said *Elizabeth*, and afterwards, and before the said time when, &c. to wit, on the 8th day of *October* 1688, the said Duke at *Enfield* aforesaid died of such his estate of and in the reversion aforesaid as aforesaid seised; after whose death the said *Elizabeth* was seised of the reversion of the tenements aforesaid with the appurtenances, whereof, &c. in her demesne as of freehold for the term of her life, by virtue of the devise aforesaid to her in form aforesaid made; and so thereof being seised the same *Elizabeth* afterwards, and before the said time when, &c. to wit, on the 20th day of *September* in the year of the Lord 1692, at *Enfield* aforesaid in the county of *Middlesex* aforesaid, had taken for her husband the said *Ralph* Earl of *Mountague*, whereby the same *Ralph* Earl of *Mountague* and *Elizabeth* his wife had been and then were seised of the reversion of the tenements aforesaid with the appurtenances, whereof, &c. in their demesne as of freehold for the term of the life of the said *Elizabeth*; and because 350 *l.* of the rent aforesaid on the demise aforesaid above reserved for two years and the half of a year after the death of the said Duke, ended on the feast of *St. Michael* the Archangel then last past, to the same *Ralph* Earl of *Mountague* and *Elizabeth* his wife at the said time when, &c. were in arrear and unpaid, the same *Henry*, as bailiff of the said *Ralph*

C. Duke of
Albermarle
seised in fee,
and demised
to J. B.

Exception of
timber.

The habend.

The entry of
the lessee.

The lessor de-
vised the re-
version to his
wife for life,

who married
the Earl of
Mountague;

and for rent
arrear the de-
fendant as
their bailiff
distrained.

Ralph Earl of *Mountague* and *Elizabeth* his wife, for the said 350*l.* of the rent aforesaid, to the same *Ralph* Earl of *Mountague* and *Elizabeth* his wife due and then being in arrear, he well acknowledged the taking of the cattle, goods and chattels aforesaid in the said place called *Enfield Hills*, in which, &c. and justly, &c. as in parcel of the tenements aforesaid with the appurtenances to the same *John* as was aforesaid demised, by virtue of the demise aforesaid, &c. With this, that the same *Henry* would verify, that the said *Elizabeth* the wife of the said Earl was then surviving and in full life, to wit, at *Enfield* aforesaid, &c. And the said *Robert* then said, that the said *Henry*, for the reason above alledged, as bailiff Bar to the co-
of the said *Ralph* Earl of *Mountague* and *Elizabeth* Duchess of *Albermarle*, the taking of the cattle, goods and chattels aforesaid in the said place in which, &c. ought not to acknow-
ledge just, because he then said, that well and true it was, that the said *Christopher*, late Duke of *Albermarle*, in his life-time was seised in his demesne as of fee of and in the said messuage and 377 acres of land with the appurtenances in the cognizance aforesaid above-
mentioned, and that the said place in which, &c. then was, and from time whereof, &c. and also for all the time aforesaid, had been thereof parcel; and that the same Duke, be-
fore the said time when, &c. to wit, on the said 1st day of *November* 1678 aforesaid, had demised to the said *John Batburs* the tenements aforesaid above specified under the yearly rent aforesaid in the said cognizance mentioned, and that by virtue of that demise the said *John* into the tenements aforesaid with the appurtenances, whereof, &c. to him as aforesaid demised, had entered and been thereof possessed, the reversion thereof to the said Duke, his heirs and assigns belonging, as by that cognizance above was supposed; but the same *Robert* farther said, that the said *John* being so thereof possessed, the reversion thereof in form aforesaid belonging, the same Duke in his life-time, and before the said time when, &c. to wit, on the 15th day of *July* 1681, at *Enfield* aforesaid, by his certain indenture then made between the said late Duke, by the name of the most Honourable *Christopher*, Duke of *Albermarle*, Earl of *Torrington*, Baron *Munk of Potberidge, Beauchamp and Teas*, Knight of the most honourable order of the Garter, and one of the Lords of the privy council of the then King, on the one part, and the most Honourable *Henry* Duke of *Newcastle*, the most Honourable *John* Earl of *Bath*, the Honourable *Bernard Grenville*, Esq; *Walter Clarges*, Bart. and *Thomas Stringer*, Knt. serjeant at law, on the other part, one part of which said indenture sealed with the seal of the said late Duke of *Albermarle* he then there in court produced, the date whereof was the day and year last aforesaid, for and in consideration of 5*s.* of lawful money of *England* by the said Duke of *Newcastle*, *John* Earl of *Bath*, *Bernard Grenville*, *Walter Clarges* and *Thomas Stringer*, to the same Duke in hand paid, had bargained and sold to the said Duke of *Newcastle*, Earl of *Bath*, *Bernard Grenville*, *Walter Clarges* and *Thomas Stringer*, their executors and administrators, (among other things) the reversion of the tenements aforesaid, whereof, &c. To have and to hold to them from thenceforth unto the full end and term of one whole year from thence next ensuing, fully to be compleat and ended, as by the same indenture (among other things) was then more fully manifest and did appear; by virtue of which said bargain and sale, and by force of the statute for transferring uses into possession, they the said Duke of *Newcastle*, Earl of *Bath*, *Bernard Grenville*, *Walter Clarges* and *Thomas Stringer*, were possessed of the reversion of the tenements aforesaid with the appurtenances whereof, &c. for the said term to them as was aforesaid bargained and sold; and being so thereof possessed, and the said *John Batburs* of the tenements aforesaid with the appurtenances whereof, &c. in form aforesaid being possessed, the reversion thereof to the same late Duke of *Albermarle* and his heirs belonging, he the same Duke of *Albermarle* afterwards in his life-time, to wit, on the 16th day of *July* 1681 aforesaid, at *Enfield* aforesaid, by his certain indenture then and there made between him the said Duke of *Albermarle* of the one part, and the said Duke of *Newcastle*, *John* Earl of *Bath*, *Bernard Grenville*, *Walter Clarges* and *Thomas Stringer*, of the other part, one part of which said indenture sealed with the seal of the said late Duke of *Albermarle* the said *Robert* there in court then produced, the date whereof was the same day and year last mentioned, for the natural love and affection which the same late Duke of *Albermarle* had for the said *John* Earl of *Bath*, his kinsman on his father's side, had released to the said Duke of *Newcastle*, *John* Earl of *Bath*, *Bernard Grenville*, *Walter Clarges* and *Thomas Stringer*, and their heirs, the reversion of the tenements aforesaid with the appurtenances, whereof, &c. To have and to hold the reversion of those tenements with the appurtenances, whereof, &c. to the said Duke of *Newcastle*, *John* Earl of *Bath*, *Bernard Grenville*, *Walter Clarges* and *Thomas Stringer*, and their heirs, to the use of the said Duke of *Albermarle* and the heirs of his body lawfully begotten; and for want of such issue to the use of the said Earl of *Bath* and his heirs for ever, as by the same indenture (among other things) was then more fully manifest and did appear; and by reason thereof the said Duke of *Albermarle* was seised of and in the reversion of the tenements aforesaid with the appurtenances, whereof, &c. in his demesne as of fee-tail, to wit, to him and the heirs of his body lawfully begotten, the remainder thereof to the said Earl

and pleads a conveyance by lease and release;

27 H. 8. c. 10.

To the use of himself in tail, the remainder to the E. of Bath in fee.

Earl of *Bath*, and his heirs belonging; and so being thereof seised, the remainder thereof in form aforesaid belonging, and the said *John Batburs* of the tenements aforesaid with the appurtenances in form aforesaid being possessed, the same Duke of *Albermarle* afterwards, and before the said time when, &c. to wit, on the 1st day of *May* in the first year of the reign of the Lord the now King and of the Lady *Mary* late Queen of *England*, at *Enfield* aforesaid died, without heir of his body begotten, and of such his estate of and in his reversion aforesaid with the appurtenances seised, whereby the said Earl had been and then was seised of the reversion of the tenements aforesaid with the appurtenances whereof, &c. in his demesne as of fee; Without that, that the said *Christopher*, late Duke of *Albermarle*, died of the reversion of the tenements aforesaid with the appurtenances whereof, &c. seised in his demesne as of fee, in manner and form as the said *Henry* by his cognisance aforesaid above had alledged: And that he was then ready to verify, &c. Wherefore for that the said *Henry*, the taking of the cattle, goods and chattels aforesaid in the said place in which, &c. had above acknowledged, the same *Robert* then prayed judgment and his damages by reason of the taking and unjustly detaining of the cattle, goods and chattels aforesaid, to be adjudged to him, &c. And the said *Henry* as before then said, that the said *Christopher*, late Duke of *Albermarle*, died seised to himself and his heirs of the reversion of the tenements aforesaid with the appurtenances whereof, &c. in manner and form as the same *Henry* by his cognisance aforesaid above had alledged, to wit, at the parish of *Enfield* aforesaid in the county aforesaid: And of that he then put himself on the country: And the said *Robert* likewise: On which said issue between the parties aforesaid, so as aforesaid joined, it was in such manner proceeded, that afterwards, to wit, on the 17th day of *July* in the 8th year of the reign of the said Lord the now King, at *Westminster* aforesaid in the said county of *Middlesex*, in the said court of the said Lord the King before the said *George Treby*, Knt. and his then companions, justices of the said Lord the King of the Bench aforesaid there the issue aforesaid by a certain jury of the country in that behalf lawfully impanelled, and returned and sworn, was tried, as by the record and proceedings aforesaid in the said court of the Bench aforesaid at *Westminster* aforesaid remaining more fully appears; and that on the said trial by certain witnesses then and there on the behalf of the said *Robert Rickards* the plaintiff in the cause aforesaid produced, and then and there duly sworn, it was then and there given in evidence to the jurors of that jury, that the said indentures of bargain and sale and release, bearing date the 15th and 16th days of *July* in the year of the Lord 1681, had been sealed and delivered by the said late Duke of *Albermarle* on or about the times of the dates of the said indentures at the then dwelling-house of him the said late Duke of *Albermarle*, commonly called or known by the name of *Albermarle house*, which said house on the said 16th day of *July* in that year was situate in the parish of *St. Martin in the Fields* in the county of *Middlesex* aforesaid; and that one *John Coppleston*, Knt. at the times of the sealing and delivery of those indentures was present in that house with the said Duke of *Albermarle*, and was a witness to the sealing and delivery of the same: And farther the said coroner and attorney of the said Lord the King for the same Lord the King gives the court here to understand and be informed, that then at that trial, to wit, on the said 17th day of *July* in the 8th year of the reign of the said Lord the now King aforesaid, at *Westminster* aforesaid in the said county of *Middlesex*, in the said court of the said Lord the King before the same justices of the said Lord the King of the Bench aforesaid there one *William Coppleston*, late of was produced a witness on the behalf of the said *Henry Cornesfort* the defendant in the cause aforesaid, and then and there was sworn on the Holy Evangelists to say the truth, the whole truth, and nothing but the truth, of and in the premisses in the issue between the parties aforesaid, in manner and form aforesaid put; and that the same *William Coppleston*, not having God before his eyes, but being moved and seduced by the instigation of the Devil, then and there by his own proper act and consent falsely and maliciously, voluntarily and corruptly on his oath aforesaid said, deposed, swore, and to the jurors of the jury aforesaid of and concerning the said *John Coppleston* in evidence gave, that he (meaning him the said *William Coppleston*) was with *John Coppleston*, Knt. (meaning the said *John Coppleston*, Knt.) at *Cannington* (meaning a certain place called *Cannington* in the county of *Somerset*,) in *July* 81, (meaning the month of *July* in the year of the Lord 1681 aforesaid,) and that he (again meaning him the said *William Coppleston*) was with *John Coppleston*, Knt. (again meaning the same *John Coppleston*, Knt.) at *Cannington*, (again meaning *Cannington* aforesaid) in *July* 1681, (meaning the same month of *July* in that year,) and that he (again meaning himself the same *William Coppleston*) was with *John Coppleston*, Knt. (meaning the said *John Coppleston*, Knt. in the month of *July* in the year of the Lord 1681, when in truth and in fact the said *John Coppleston*, Knt.

and died
without issue.

Absque hoc,
that the Duke
died seised in
fee.

Issue on the
traverse.

The assign-
ment of the
perjury.

Knt. was not at *Cannington* aforesaid in the said county of *Somerset* in the said month of *July* in the year of the Lord 1681 aforesaid, and when in truth and in fact the said *William Coppleston* was not with the said *John Coppleston*, Knt. at *Cannington* aforesaid in the said month of *July* in the year of the Lord 1681 aforesaid, as the same *William Coppleston* on his oath aforesaid falsely, maliciously and voluntarily, and corruptly said, deposed, swore, and to the jurors of the jury aforesaid in evidence gave; and when in truth and in fact the said *John Coppleston*, Knt. was not at *Cannington* aforesaid at any time whatever in the same month of *July* in that year; and when in truth and in fact the said *John Coppleston*, Knt. during the whole said month of *July* in the year of the Lord 1681 aforesaid did inhabit at *Westminster* aforesaid in the county of *Middlesex* aforesaid; and so the same coroner and attorney of the said Lord the King for the same Lord the King says, that the said *William Coppleston* on the said 17th day of *July* in the 8th year of the said Lord the now King aforesaid, at *Westminster* aforesaid in the said county of *Middlesex* in the said court of the said Lord the King of the Bench there, before the said justices of the same Lord the King of the Bench aforesaid, by his proper act and consent, and from his own most wicked intention in manner and form aforesaid falsely, maliciously, voluntarily and corruptly, on his oath aforesaid voluntarily and corruptly committed perjury, to the great displeasure of Almighty God, in contempt of the said Lord the now King and his laws, to the bad and pernicious example of all others in such case offending, and against the peace of the Lord the now King, his crown and dignity, &c. Wherefore the same coroner and attorney of the said Lord the King for the same Lord the King prays the advice of the court here in the premises, and due process of law against him the said *William Coppleston* in this behalf to be made, to answer to the said Lord the King of and in the premises, &c.

And so he voluntarily committed perjury.

After a verdict for the King judgment was arrested, because *Cannington* was not by the defendant on his oath sworn to be *Cannington* in the county of *Somerset*, but *Cannington* only, and the county of *Somerset* was brought into the information with an innuendo: But afterwards in Parliament upon a writ of error 12 March 1697 the judgment was reversed.

The Attorney General against Peckham and others.

Kent, to wit. **B**E it remember'd, that *Thomas Trevor*, Knt. attorney general of the Lord the now King, who for the same Lord the King in this behalf prosecutes, in his proper person comes here into the court of the said Lord the King before the King himself at *Westminster* on Monday next after 15 days of *St. Martin* in this same term, and for the same Lord the King gives the court here to understand and be informed, that *Tobias Verrell*, late of *Bradborne* in the parish of *Sevenoake* in the county of *Kent*, labourer, *Nicholas Cooper*, late of *Penhurst* in the county aforesaid labourer, *Walter Woodgate*, late of *Radlease* in the county aforesaid, labourer, and *Charles Ellis*, late of *Penhurst* aforesaid in the county aforesaid, labourer, on the 10th day of *August* in the 10th year of the reign of our Lord *William* the Third, &c. with force and arms, to wit, with pistols and swords at *Aylesford* in the county aforesaid did unlawfully meet together and assemble themselves to disturb the peace of the said Lord the King, and being then and there so met together and assembled, the park of *John Banks*, Bart. there, in which deer then and long before were kept, then and there with the force and arms aforesaid unlawfully broke and entered, and in and upon *Edward Bush*, *John Cuwill*, *Richard Hodges* and *John Fletcher*, then the servants of the said *John Banks*, Bart. and in the peace of God and of the said Lord the King then and there being, then and there with the force and arms aforesaid made an assault and an affray, and them the said *E. B. J. C. R. H.* and *J. F.* then and there with force and arms, &c. did unlawfully beat, wound and abuse, so that their lives were greatly despaired of, and the pales of the park aforesaid, being the fence of the same park, then and there with force and arms did unlawfully break, throw down and spoil, and other outrages on the same *J. Banks*, Bart. *E. B. J. C. R. H.* and *J. F.* then and there with the force and arms aforesaid did unlawfully commit, to the great damage of them the said *J. Banks*, Bart. *E. B. J. C. R. H.* and *J. F.* in contempt of the said Lord the now King and his laws, to the bad and pernicious example of all others in such case offending, and against the peace of the said Lord the now King, his crown and dignity, &c. Wherefore the same attorney general of the said Lord the now King for the same Lord the King prays the advice of the court here in the premises, and due process of law against the said *Tobias V.*, *Walter W.*, *Nicholas C.* and *Charles Ellis* in this behalf to be made, to answer to the said Lord the King in the premises, &c.

An information for a riot against deer-stealers.

Banks, Bart. against Peckham and others.

A Certiorari
to remove a
conviction of
deer-stealing
on 3 & 4 W.
3. c. 10.

Pract. Reg.
312.

WILLIAM, &c. To William Twisden, Bart. Philip Boteler, Bart. S. Leonard, Bart. J. Williamson, Knt. C. Bickerstaffe, Knt. William Lambard, Esq. J. Packer, Esq. William Selby, Esq. and Thomas Blisse, Esq. keepers of our peace, and our justices assigned to hear and determine divers felonies, trespasses and other misdemeanors in our county of Kent, and every of them, greeting: Being willing for certain reasons to be certified of the record of the conviction of *Reginald Peckham* the elder, for certain trespasses against the form of the statute made *For the more effectual discovery and punishment of deer-sealers*, whereof before you he is convicted, (as it is said) before us by you to be sent; We command you and every of you, that the record of the conviction aforesaid, with all things touching it, as fully and intirely as it now remains before you, by whatever name the said *Reginald* may be called in the same, before us under your or one of your seals, from the day of *St. Michael* in three weeks, wheresoever we shall then be in *England*, you or one of you send, together with this writ, that we may farther cause to be done therein what of right and according to the law and custom of our kingdom of *England* we shall see to be done. Witness *J. Holt*, Knt. at *Westminster* the 1st day of *July* in the 8th year of our reign.

Aby.

The return of *Kent*, to wit:
the conviction.

BE it remembered, that otherwise, to wit, on the 5th day of *September* in the 7th year of the reign of our Lord *William* the Third, by the grace of God of *England*, *Scotland*, *France* and *Ireland* King, defender of the faith, &c. at *Maidstone* in the county of *Kent*, before *Humphry Miller*, Bart. *Philip Boteler*, Bart. and *T. Blisse*, Esq. then and yet justices of the said Lord the King assigned to keep his peace in the county aforesaid, as also assigned to hear and determine divers felonies, trespasses and other misdemeanors committed in the same county, on the information of *John Banks*, Gent. and on the oath of *Edward Busb*, of the parish of *Shoreditch* in the county of *Middlesex*, carpenter, (being a credible witness) one *Reginald Peckham* the younger, of *Wrotham* in the county of *Kent* aforesaid, Gent. *George Herbert* of *Tonbridge* in the county aforesaid, Gent. *Charles Farmer* of *Rotterfield* in the county of *Suffex*, Gent. *Nicholas Copper* of *Igtham* in the county of *Kent* aforesaid, yeoman, &c. duly and according to the form of the statute in that case made and provided, were convicted, and each of them was convicted by the justices aforesaid, for this, that the said *R. Peckham*, *G. Herbert*, *C. Farmer*, *N. Copper*, *E. Chambers* and *E. Garret*, on the 14th day of *August* in the 7th year above-said, about the 1st hour in the night of the same day, with force and arms, &c. at *Aylesford* in the county aforesaid, in the park of *John Banks* of *Aylesford* aforesaid, Bart. there situate, lying and being, (and then being the park and foil in which fallow-deer then and there before were usually kept, and then were kept,) four fallow-deer of the said *John Banks*, Bart. with certain grey-hounds unlawfully and unjustly had hunted, chased, taken, killed and carried away, without the consent of the said *John Banks*, Bart. (then and yet owner and possessor of the park and deer aforesaid,) or any other person intrusted with the custody thereof, against the form of the statute in such case made and provided; and farther then and there it was considered and adjudged by the justices aforesaid, that they the said *Reginald Peckham*, *G. Herbert*, *Charles Farmer*, *Nicholas Copper*, *Edward Chambers* and *Edward Garret*, according to the form of the statute aforesaid, should forfeit and each of them separately should forfeit the sum of 120*l.* for his offence aforesaid, to wit, the sum of 30*l.* for every deer of the said four deer so as aforesaid hunted, chased, killed and taken away, one third part thereof to be given to the informer aforesaid, another third part thereof to the use of the poor of the parish of *Aylesford* aforesaid, in which parish the offence aforesaid was committed, and the other third part to the said *John Banks*, Bart. the owner of the deer aforesaid, as by the conviction and judgment aforesaid by the justices aforesaid ended and given, and in the hands of the said justices remaining, more fully is manifest and appears: And now, to wit, on *Thursday* the 13th day of *August* in the 8th year of the reign of the said Lord the now King, at *Tonbridge* in the county of *Kent* aforesaid, the said *John Banks* of *A.* aforesaid in the county aforesaid, Gent. and the said *Edward Busb* in their proper persons come before us *William Twisden*, Bart. *Philip Boteler*, Bart. &c. and others our companions, justices of the said Lord the King assigned to preserve his peace in the county aforesaid, and also to hear and determine divers felonies, trespasses

trespasses and other misdemeanors in the same county committed; and the said *John Banks*, The Informant. Gent. gives us the said justices to understand and be informed, that *Reginald Peckham* the elder, of *Wrotham* in the county of *Kent* aforesaid, Esq; on the said 14th day of *August* in the 7th year of the reign of the said Lord the now King aforesaid, at *Aylesford* aforesaid in the county of *Kent* aforesaid, with force and arms, &c. was aiding and assisting to them the said *Reginald Peckham* the younger, *George Herbert*, &c. in the unlawful and unjust hunting, chasing, taking, killing, wounding and carrying away of the said four deers so as aforesaid, in the said park of the said *John Banks*, Bart. hunted, chased, taken, killed, wounded and carried away, against the form of the statute aforesaid; and hereupon the said *Edward Busb*, (being a credible witness) before us the said justices last mentioned, now here takes his corporal oath on the Holy Gospel of God to tell the truth of and upon the premisses to us the said *William Twisden*, *Philip Boteler*, &c. here having power and authority to administer an oath to the same *Edward Busb* in this behalf, and here being sworn, he the said *Edward Busb* on his oath aforesaid says, deposes and swears, that the said *Reginald Peckham* the elder, of *Wrotham* aforesaid in the county of *Kent*, Esq; on the said 14th day of *August* in the 7th year of the reign of the said Lord the now King aforesaid, at *Aylesford* aforesaid in the county of *Kent* aforesaid, with force and arms, &c. was aiding and assisting to them the said *Reginald Peckham* the younger, &c. in the unlawful and unjust hunting, chasing, taking, killing, wounding and carrying away of the said four deer so as aforesaid in the said park of the said *John Banks*, Bart. hunted, chased, taken, killed, wounded and carried away, against the form of the statute aforesaid; therefore it is considered and adjudged by us the said *William Twisden*, *Philip Boteler*, &c. the justices aforesaid, on the citation and hearing of the said *Reginald Peckham* the elder, that the said *Reginald Peckham* the elder, of the premisses above on him as aforesaid charged by the testimony of the said *Edward Busb*, (a credible witness on his oath aforesaid,) before us the said justices, is convicted, according to the form of the statute in such case made and provided, (he the said *Reginald Peckham* the elder being duly prosecuted for the offence aforesaid within 12 months after the fact committed,) and that the said *Reginald Peckham* the elder do forfeit the sum of 120 *l.* for his offence aforesaid, to wit, the sum of 30 *l.* for every deer of the said four deers so as aforesaid hunted, taken, killed and carried away, one third part of the said sum of 120 *l.* to be given to *John Banks*, Gent. the informer aforesaid, one other third part of the said sum of 120 *l.* to the use of the poor of the parish of *Aylesford* aforesaid, in which parish the offence aforesaid was committed, and one other third part of the said sum of 120 *l.* to the said *John Banks*, Bart. the owner of the park and deer aforesaid, according to the form of the statute aforesaid. In witness whereof we the said justices last mentioned to this our record have set our hands and seals, at *Tunbridge* aforesaid in the county of *Kent* aforesaid, the said 13th day of *August* in the 8th year of the reign of the said Lord the now King aforesaid; and in the year of the Lord 1696.

William Twisden, ☉
Philip Boteler, ☉
Stephen Leonard, ☉
 &c.

Halfey against *Hope*.

Mid, to wit. *JOHN Halfey*, who as well for the Lord the King as for himself in this Information for exercising the trade of a brewer. 1 Lutw. 164. Hob. 327. behalf prosecutes, comes here into the court of the said Lord the King at the general quarter-sessions of the peace of the said Lord the King held for the county of *Middlesex* at *Hicks's Hall*, in the parish of day in the 1st year of the reign of the Lord *George*, now King of *Great Britain*, &c. before and others their companions, justices of the said Lord the King assigned to preserve the peace in the county aforesaid, and also to hear and determine divers felonies, trespasses and other misdemeanors committed in the same county, and as well for the said Lord the King as for himself gives the court here to understand and be informed, that *Andrew Hope* of the parish of *St. Martin in the Fields* in the county of *Middlesex* aforesaid, on the 3d day of *August* in the year of the Lord 1714, at the parish aforesaid in the county aforesaid, and for the space of six months then next following, for his own proper gain voluntarily used, exercised and occupied the art, mystery or manual occupation of a brewer, being an art, mystery or manual occupation used in *England* at the time of the making of the statute in such case made and provided, in which said art, mystery or manual occupation he the same *Andrew* was not brought up as an apprentice for the space of seven years, against the form of the statute in such case made and provided, whereby the same *Andrew* forfeited 5. 31. El. c. 4.

Sect. 39.

feited and lost 12 *l.* to wit, 40 *s.* for every month the same *Andrew Hope* so as aforesaid used, exercised and occupied the art, mystery or manual occupation of a brewer aforesaid: Whereon the same *John Halsey*, who as well for the said Lord the King as for himself in this behalf prosecutes, prays the advice of the court here in the premisses, and due process of law against the said *Andrew Hope* in this behalf to be made, and that the said *Andrew Hope* may forfeit and lose for his offences aforesaid, to wit, 40 *s.* for every month aforesaid; and that he the same *John Halsey*, who as well for the said Lord the King as for himself in this behalf prosecutes, may have a moiety of the forfeitures aforesaid, according to the form of the statute aforesaid in such case made and provided, and also that the said *Andrew Hope* may come here into court to answer of and upon the premisses.

Inquisition.

The King against The Lord Griffin.

A commission to inquire of lands forfeited on an outlawry for high treason.

WILLIAM the Third, &c. To our trusty and beloved *John Winston*, *Richard Butler* the elder, *Edward Bromage*, *John Radford*, *Charles Pultney* and *John Alendon*, Esq; *Samuel Theed*, *Collins* and *John Bradford*, Gent. greeting: Whereas at our sessions of *oyer and terminer* held for the city of *London* at *Justice-hall* in the *Old Baily*, *London*, in the parish of *St. Sepulchre* in the ward of *Farringdon Without*, *London*, on *Friday*, to wit, 30th day of *August* in the 7th year of our reign, before *Thomas Lane*, Knt. mayor of the city of *London* aforesaid, *John Holt*, Knt. our chief justice assigned to hold pleas before us, *Edward Nevill*, Knt. one of our justices of the Bench, *John Moore*, Knt. one of the aldermen of the city aforesaid, *Salathiel Lovell*, Knt. serjeant at law, and recorder of the same city, and *Peter Daniel*, Knt. another of the aldermen of the city aforesaid, our justices, by our letters patent to the same justices before named and the mayor of the city aforesaid and others, or any four or more of them, under our great seal of *England* made, to inquire by the oath of good and lawful men of the city aforesaid, and other ways, methods and means whereby they shall or may better know, as well within liberties as without, of all treasons, misprisions of treason and concealments of treason against us out of this kingdom of *England* wheresoever, by whomsoever and howsoever had, done, perpetrated or committed, according to the form of the statute in the Parliament of the Lord *Henry* the Eighth, late King of *England*, &c. in the 35th year of his reign held at *Westminster*, made and provided, and the same treasons and other the premisses (for that time) to hear and determine, according to the law and custom of our kingdom of *England* assigned, by the oath of *Adrian Beyer*, *John Moore*, (reciting the rest of the jurors) good and lawful men of the city of *London* aforesaid, being sworn and charged to inquire for us for the body of the city aforesaid, it was presented, That whereas a war open and notoriously publick between us and *Lewis* the *French* King long was and yet is, during which time the said *Lewis* the *French* King and his subjects were and yet are adversaries and enemies to us and our subjects, one *Charles* Earl

35 H. 8. c. 2.

Earl of Middleton, late of London, Edward Lord Griffin, late of London, Roger Palmer, late of London, Esq; (so on reciting several more) being subjects to us of this kingdom of England, the premisses well knowing, the fear of God in their hearts not having, nor the duty of their allegiance to us their supreme and natural Lord considering, but by the instigation of the devil moved and seduced, as false traitors against us their true and undoubted Lord the cordial love and true and due obedience and allegiance, which every our subjects should to us bear, and of right is bound to bear, wholly with-drawing, and contriving, practising and with their whole strength intending us and our faithful subjects to our adversaries and enemies aforesaid to make subject during the war aforesaid, to wit, on the 25th day of March in the 7th year of our reign, and at divers other days and times, as well before as after, out of this kingdom of England, to wit in the kingdom of France in parts beyond the seas, with force and arms, &c. falsely, maliciously, knowingly, advisedly, diabolically, wickedly and traitorously, to our same adversaries and enemies of and in the same war were adhering, aiding and assisting, and in performance and execution of those treason and traitorous adherences then and there during that war maliciously, voluntarily and traitorously with force and arms, to and among the adversaries and enemies aforesaid the war aforesaid against us waging and prosecuting, assembled, and themselves with the said adversaries and enemies joined, and the same adversaries and enemies of and in that war with their presence, counsel, aid, assistance, comfort, strength and power then and there traitorously comforted, aided, helped, supported and assisted, against the duty of their allegiance and also against our peace, crown and dignity, and against the form of the statute in such case made and provided, &c. as by that indictment in the same court within the city of London aforesaid of record now remaining manifestly appears: And whereas also on the indictment aforesaid it was in such manner proceeded, that afterwards, at the sessions of *oyer and terminer* held by adjournment on Wednesday, to wit, the 9th day of October in the 7th year of our reign, before our justices aforesaid in the letters patent aforesaid named so as aforesaid assigned, at Justice Hall aforesaid for the city of London in form aforesaid mentioned, the sheriffs of the city of London aforesaid were commanded by our writ that they should cause the said Charles Earl of Middleton, Edward Lord Griffin, Roger Palmer, Esq; (so on reciting their names again) to be called from Hustling to Hustling, until according to the law and custom of our kingdom of England they should be outlawed, if they should not appear, and if they should appear, then they should take them, and them safely should keep, so that they should have their bodies before our justices by the letters patent aforesaid in form aforesaid assigned, at the sessions of *oyer and terminer* for the city of London aforesaid to be held next after the feast of St. Mathew the Apostle then next ensuing, to answer to us for the treasons whereof in form aforesaid they were indicted: At which said sessions of *oyer and terminer* held for the city of London aforesaid, at Justice Hall aforesaid in the said parish of St. Sepulchre in the ward of Farrington Without, London, aforesaid, after the said feast of St. Mathew the Apostle, to wit, on Thursday the 24th day of February in the 8th year of our reign, being the next sessions after the same feast before our justices by the same letters patent in form aforesaid to inquire, hear and determine assigned, Edward Willis, Knt. and Owen Buckingham, Knt. sheriffs of the city of London aforesaid, returned the writ of *exigi facias* aforesaid in the form following, to wit, That Roger Palmer, Esq; Earl of Castlemain in the kingdom of Ireland, freely surrendered himself to our prison in our custody, whose body at the day and place aforesaid before our justices to inquire, &c. they had ready; and that the said Edward Hales, Bart. was dead; and also that afterwards, at the Hustings of plea of lands held for the city of London in the Guild-hall of the city of London within the city of London, on Monday next after the feast of the Purification of the Blessed Virgin Mary in the year abovesaid, the said Charles Earl of Middleton, Edward Lord Griffin (and the rest of them named) by virtue of our writ of *exigi facias* out of the court aforesaid duly issued, and to the sheriffs of the city of London in that behalf directed as aforesaid, by due course of law proceeding, were the 5th time called and did not appear, nor did any of them appear; therefore the same Charles Earl of Middleton, Edward Lord Griffin, &c. were outlawed, and every of them separately by himself was outlawed, as by the writ aforesaid and the return thereof in the court aforesaid now of record in their full force and strength, not reversed, or in any manner annulled, remaining manifestly appears: By reason whereof all the goods, chattels, lands, tenements and hereditaments whatsoever, of which the said Charles Earl of Middleton, Edward Lord Griffin, (and the others understood as before) were possessed or seised, or any of them was possessed or seised, in use or possession, by any right, title or means within this kingdom of England or elsewhere, within any of our dominions, became and are forfeited to us: Know therefore, that we in your fidelity, industry, and prudent circumspection in the management of our affairs greatly confiding, have assigned you to be our commissioners in this behalf, and by the tenor of these presents give to you, or any three or more of you, full power

and authority to inquire as well by the oath of good and lawful men of our county of *Northampton*, by whom the truth of the matter may be better known, as by the examinations and depositions of credible witnesses before you, or any three or more of you, to be called and examined on their oaths, and by all other ways, means and methods whereby you shall or may better know, or any three or more of you shall or may better know, what lordships, manors, lands, tenements and hereditaments, and of what yearly value the said *Edward Lord Griffin*, or any other or any others to his use, had on the said *Monday* next after the feast of the Blessed Virgin *Mary* in the 7th year of our reign above-said, on which day as afore-said he was outlawed, or ever after, and also what and what manner of leases or grants of any lands, tenements or hereditaments, and what and what manner of annuities or yearly rents, and what goods and chattels, and of what price, and what debts, specialties and sums of money the same *Edward Lord Griffin*, or any other or any others to his use, had on the said *Monday* next after the feast of the Purification of the Blessed Virgin *Mary* in the 7th year of our reign above-said, on which day as afore-said he was outlawed, or ever after, and of all other articles, things and circumstances, the premises afore-said or any of them in any manner concerning more fully the truth; and those lordships, manors, lands, tenements, goods and chattels, and other the premises afore-said with the appurtenances so as afore-said to be found to enter, take and seise into our hands: And therefore we command you, or any three or more of you, that at a certain day and place, or days and places, which you for this purpose shall appoint, or any three or more of you shall appoint, you diligently on the premises make an inquisition or inquisitions, and that or those distinctly and openly made you bring, or any three or more of you bring, before the barons of our Exchequer without delay, under you or any three or more of your seals, together with these our letters patent: We command also by the tenor of these presents our sheriff of the county of *Northampton* afore-said, that at a certain day and place, or days and places, which you shall appoint, or any three or more of you shall appoint, and to him on our behalf shall give notice, or any three or more of you shall give notice, he cause to come before you, or any three or more of you, so many and such good and lawful men of his bailiwick, as well within liberties as without, by whom the truth of the matter may be known and inquired: We also give you, or any three or more of you, full power and authority to summon and cause to appear before you what persons soever proper to be examined in the premises, and them of and in the premises, the Holy Gospel being by them first touched, before you or any three or more of you, on their oaths corporally to be taken diligently to examine, and their examinations to receive, and in writing in parchment to reduce, lest this our present command should remain farther to be executed: We give moreover to all and singular mayors, sheriffs, bailiffs, constables, and all other our officers, ministers and subjects whomsoever by the tenor of these presents strictly in command, that you and every of you in the execution of the premises they observe, obey and attend, as it behoveth. In witness whereof these our letters we have caused to be made patent. Witness Ourself at *Westminster* 15th day of *March* in the ninth year of our reign.

Trevor Dawling, by warrant of the attorney general.

The execution of this commission appears in a certain inquisition to this commission annexed. *John Clendon, John Radford, Charles Pulney, John Bradford.*

The inquisition.

An inquisition indented, taken at the sign of the *George* in *Kettering* in the county of *Northampton* afore-said, 12th day of *August* in the ninth year of the reign of our Lord *William the Third*, by the grace of God of *England, Scotland, France and Ireland* King, defender of the faith, &c. before us *John Clendon, John Radford, Charles Pulney*, Esq; and *John Bradford*, Gent. commissioners of the said Lord the King, by virtue of the commission of the said Lord the King under his great seal of *England* sealed, bearing date at *Westminster* the 15th day of *March* last past, to us, or any three or more in the same commission named, directed, and to this inquisition annexed, to inquire on the behalf of the said Lord the King of certain things, articles and circumstances in the same commission specified, by the oath of *Joseph Baker*, Gent. *William Baker, John Ives*, &c. (reciting all the jurors) good and lawful men of the county of *Northampton* afore-said, who being sworn and charged of and upon the premises on their oath say, that *Edward Lord Griffin* in the commission afore-said named, on the day of the committing the high treason in the same commission specified, to wit, the 25th day of *March* in the 7th year of the reign of the said Lord the King, and also on the day of the outlawry of the said *Lord Griffin* in the same commission mentioned,

mentioned, to wit, *Monday* next after the feast of the Purification of the Blessed Virgin Mary in the 7th year above said, was seised in his demean as of fee of and in the manor of *Brabrooke*, with the appurtenances in the parish of *Brabrooke* in the county above said; and also of and in one messuage with the appurtenances, situate in the parish of *Brabrooke* in the county above said, now or late in the tenure or occupation of *William Winterton*; and of and in ten acres of land, five acres of meadow and five acres of pasture, lying in *Brabrooke* above said, now or late in the tenure or occupation of the same *William Winterton*, and of the clear yearly value in all issues besides reprises 12*l.* more or less; and also of and in, &c. (reciting the particular of all his estate in the same manner :) And the jurors above said on their oath above said farther say, that *John Stone*, late of *Brabrooke* above said in the county above said, Gent. from the said *Monday* next after the feast of the Purification of the Blessed Virgin Mary in the 7th year above said, being the said day of the outlawry of the said Lord *Griffin*, unto the day of the caption of this inquisition, at *Brabrooke* above said in the county above said, had received the several yearly rents from the said several persons above particularly named, to and for the use of the said *Edward Lord Griffin*, and that the said *John Stone* ought to render an account for the same to the said Lord the King: And the jurors above said on their oath above said farther say, that the said *Edward Lord Griffin* had no lordships or manors, or any other lands, tenements or hereditaments, the said 25th day of *March* in the 7th year above said, nor the said day of the pronouncing of the outlawry above said, or any other goods and chattels, debts, rents, specialties or sums of money, the said *Monday* next after the feast of the Blessed Virgin Mary, or ever after, within the county above said, to the knowledge of the same jurors. In witness whereof to one part of this inquisition indented with us the said commissioners remaining, and by us to the barons of the Exchequer of the said Lord the King to be sent and certified, as well the jurors above said have set their hands and seals, as we the said commissioners have set our hands and seals, but to the other part of this inquisition, with the foremen of the jurors above said remaining, we the said commissioners have set our hands and seals the day, year and place first above said, &c. *John Clendon, John Radford, Cha. Pultney, John Bradford, Jos. Baker, William Baker, Jo. Ives, John Johnson* the mark of (C), *Benjamin Styles, Tho. Wood, S. Aussen, Ro. Tebbut, John Wells, Tho. Bull* the mark of (P), *William Rawlatt, J. Wood, Richard Sherman, R. Garratt, Sam. Taylor, Geo. Tyndall, J. Symonds.*

Yale against Kirwood, Knt.

GGeorge, &c. To the sheriff of *Middlesex*, greeting: Whereas *Elibu Yale* of the parish of *St. Andrew Holborn* in the county of *Middlesex*, Esq; and *Matbew Kirwood*, Knt. citizen and goldsmith of *London*, by their writing obligatory sealed with their seal bearing date 25th day of *April* in the 4th year of our reign, are jointly and separately bound to us in 40000*l.* of lawful money of *Great Britain*, to be paid at a certain day past, and the said 40000*l.* to us have not yet paid, nor caused to be paid, nor hath either of them paid or caused to be paid, as it is said; And we being willing to be satisfied the said 40000*l.* to us now due, with all the speed we can as is just, command you, that you do not omit by reason of any liberty, but you enter into it, and as well by the oath of good and lawful men of your bailiwick, as by the oath and testimony of any good and lawful men of your same bailiwick, by whom the truth of the matter may be the better known, and by all other ways, means and methods you shall or may better know, diligently inquire what debts, credits, specialties and sums of money the said *Matbew Kirwood* now has in your said bailiwick, and all and singular those said debts, credits, specialties and sums of money in whose hands soever they now are, by the oath of good and lawful men diligently extend, and into our hands cause to be taken and seised, that we may have them until we are satisfied the debt above said, according to the form of the statute for the recovery of such our debts thereof lately made and provided; and we farther command and empower you by these presents, to call before you all persons proper to be examined in the premises here, of and in the same premises diligently to be examined, lest this our present command should remain farther to be executed: And how you shall have executed this our present command, to the barons of our Exchequer at *Westminster* on the 18th day of *November* next ensuing distinctly and openly certify, and have there then this writ. Witness *Thomas Bury*, Knt. the 2d day of *September* in the 5th year of our reign, by the writing obligatory above said, and by the said statute of the 33d year of the reign of the late King *Henry the Eighth*, and by warrant by the barons.

Masbam.

George

Extent in aid
of the King.
Offic. Br. 84,
87.
1 Cro. 106.
2 Cro. 179,
693.
4 Cro. 67.
Pract. Reg.
591.

Extent in aid. **G** George by the grace of God of Great Britain, France and Ireland King, defender of the
 4 Rep. 66, faith, &c. to the sheriffs of London, greeting: Whereas William J. of the town of H. in
 67. the county of H. Esq; William D. of the same, Esq; Daniel N. of the parish of St. Martin
 Hob. 339. in the Fields in the county of Middlesex, goldsmith, Joseph N. of the same, goldsmith, and
 3 Lev. 134. Aldred C. of G. in the county of H. aforesaid, Gent. by their writing obligatory sealed
 1 Show. 5. with their seals, bearing date the second day of July in the 6th year of our reign, are
 2 Show. 480. bound to us jointly and severally in 6000 l. of lawful money, to be paid at a certain day
 Pract. Reg. past, and them to us have not yet paid, nor caused to be paid, as it is said: And we be-
 591. ing willing to be satisfied, &c. to Witness Tho. Bury, Knt. &c.

By the Barons.

Masbam.

The return. The execution of this writ appears in the inquisition to this writ annexed. The answer
 of William Billers, Esq; and Geo. Caswell, Knt. sheriffs.

The inquisi- London, to wit. **A**N Inquisition indented, taken at the Guildhall of the city of London
 tion. in the parish of St. Lawrence in the Old Jury in the ward of Cbeope
 of the same city, the 12th day of October in the seventh year of the reign of our Lord
 George by the grace of God of Great Britain, France and Ireland King, defender of the
 faith, &c. before William Billers, Esq; and George Caswell, Knt. sheriffs of the city of
 London aforesaid, by virtue of a certain writ of the said Lord the King to the same she-
 riffs directed, and to this inquisition annexed, to inquire of and upon certain matters in the
 The jury. same writ contained and specified, by the oath of Robert Walker, Daniel Collins, George
 Stagg, Robert Dawys, William Fowler, Thomas Man, Robert Beesly, Charles Kent, Walter
 Preston, James Stasey, William Meadley and William Haidey, good and lawful men of the
 bailiwick of the said sheriffs, who being sworn and charged, say on their oath, that one
 The credits of F. B. of, &c. on the day of the issuing of the same writ, to wit, on the 5th day of
 the debtor. October in the 7th year above said, was indebted to D. N. and J. N. in the said writ
 named in the sum of 104 l. of lawful money of Great Britain, for the like sum of money
 by the said F. B. of the said D. N. and J. N. before then borrowed and received: And
 Money lent. the jurors aforesaid farther on their oath say, that one Robert O. of the parish of St. Mar-
 tin in the Fields in the county of Middlesex, jeweller, on the said day of the issuing of the
 same writ, to wit, on the 5th day of October in the 7th year above said, was indebted to
 the said Daniel N. and Joseph N. in the sum of 14 l. of like money of Great Britain, for
 the like sum of money by the said Robert O. of the said D. N. and J. N. before borrowed
 and received: And the jurors aforesaid farther on their oath say, that one Andrew V. of
 the parish of in the county of Middlesex, Gent. on the said day of the issuing of the
 same writ, to wit, on the 5th day of October in the 7th year above said, was indebted to
 the said D. N. and J. N. in the sum of 3 l. of like lawful money, for the like sum of mo-
 ney by the said Andrew Vidian of the said D. N. and J. N. before then borrowed and received:
 And the jurors aforesaid farther on their oath say, that one William T. of the parish of
 in the county of Middlesex, coach-maker, on the said day of the issuing of the same
 writ, to wit, on the said 5th day of October in the 7th year above said, was indebted to
 the said D. N. and J. N. in the sum of 56 l. for the like sum of money by the said
 W. T. for the use of the said D. N. and J. N. before then had and received: And the jurors
 Money re- aforesaid farther on their oath say, that one G. F. of, &c. in the county of Middlesex,
 ceiv'd to his use. Gent. on the said day of the issuing of the same writ, to wit, on the said 5th day of Oc-
 tober in the 7th year above said, was indebted to the said D. N. and J. N. in the sum of
 100 l. for the like sum of money by the said G. F. for the use of the said D. N. and J. N.
 before then had and received: And the jurors aforesaid farther on their oath say, that one
 J. K. of in the county of Middlesex, mercer, on the said day of the issuing of the same
 writ, to wit, on the said 5th day of October in the 7th year above said, was indebted to
 the said D. N. and J. N. in the sum of 20 l. for the like sum of money by the said John
 Kirke for the use of the said D. N. and J. N. before then had and received: And the
 jurors aforesaid farther on their oath say, that one B. of. on the said day of the issuing
 of the same writ, to wit, on the said 5th day of October in the 7th year above said, was
 indebted to the said D. N. and J. N. in the sum of 40 l. for the like sum of money by the
 said B. for the use of the said D. N. and J. N. before then had and received: And
 the jurors aforesaid farther on their oath say, that one S. B. of &c. in the county aforesaid,
 Esq; on the said day of the issuing of the same writ, to wit, on the said 5th day of Oc-
 tober in the 7th year above said, was indebted to the said D. N. and J. N. in the sum of 100 l.
 for

for the like sum of money by the said *S. B.* for the use of the said *D. N.* and *J. N.* before then had and received: And the jurors aforesaid farther on their oath say, that *D. S.* on the said day of the issuing of the same writ, to wit, on the said 5th day of *October* in the 7th year above said, was indebted to the said *D. N.* and *J. N.* in the sum of 28*l.* 11*s.* of like lawful money, for divers goods, wares and merchandizes, by the said *D. N.* and *J. N.* to the same *S.* before then sold and delivered: And the jurors aforesaid farther on their oath say, that *D. S.* on the said day of the issuing of the same writ, to wit, on the said 5th day of *October* in the 7th year above said, was indebted to the said *D. N.* and *J. N.* in the sum of 20*l.* 7*s.* of like lawful money of *Great Britain*, for divers goods, wares and merchandizes, by the said *D. N.* and *J. N.* to the said *D. S.* before then sold and delivered: And the jurors aforesaid on their oath farther say, that one *P. B.* of *Limington* in the county of *South'ton*, A debt by *Esq;* and *A. M.* of the parish of *S. A. Westminster* in the county of *Middlesex*, widow, by specialty, their writing obligatory sealed with the seals of them the said *P.* and *A.* bearing date the 6th day of *February* 1718, became held and bound to the said *D. N.* and *J. N.* in 200*l.* of lawful money of *Great Britain*, to be paid to the same *D. N.* and *J. N.* when they should be thereto after required; which said writing obligatory aforesaid, as also the money thereon due, we the said sheriffs, by virtue of the writ aforesaid, have caused to be extended, and into the hands of the said Lord the King to be taken and seized: And the jurors aforesaid farther on their oath say, that *H. C.* of the parish, *Ec. Westminster* in the county of *Middlesex*, Gent. was indebted to the said *D. N.* and *J. N.* in the sum of 220*l.* of like lawful money of *Great Britain*, for the like sum of money by the said *D. N.* and *J. N.* to the said *H. C.* accommodated and lent; and that the said *H. C.* by his certain writing duly made, bearing date 27th day of *June* 1719, for the consideration in the same mentioned, assigned, transferred and set over to the said *D. N.* his executors, administrators and assigns, all his full pay or bounty-money of 200*l.* per ann. given or granted him by the said Lord the King, payable to the said *H. C.* by equal quarterly portions, out of the revenue of the said Lord the King of the civil list, or otherwise; and the said *H. C.* by virtue of the same, authorized and impowered the said *D. N.* his executors, administrators and assigns, from time to time, and at all times afterwards, when and as often as they were payable and paid, to ask, demand and receive of and from *W. C.* *Esq;* pay-master of the said Lord the King's pensions or bounty-money, or of the pay-master thereof, or any other person or persons whomsoever for the time being authorized and appointed to pay the same, and that his or their receipt or receipts, acquittance or acquittances, should be a full and sufficient discharge thereof; and that there was due to the said *H. C.* from the said Lord the King, by the hands of the said *W. Cbetwynd*, *Esq;* the sum of 200*l.* of lawful money, for a year ended at the feast of *St. Michael* last past: And the jurors aforesaid farther on their oath say, that the writing aforesaid was made and executed by the said *H. C.* to the said *D. N.* to secure and to repay to the said *D. N.* the sum of 220*l.* advanced by him the said *D. N.* to the said *H. C.* which yet remains due and unpaid: And the jurors aforesaid on their oath aforesaid farther say, that *D. N.* and *J. N.* in the writ of extent aforesaid named, on the day of the issuing of the same writ, to wit, on the said 5th day of *October* in the 7th year above said, and at the time of the caption of this inquisition, were possessed and intitled in our bailiwick, as of their own proper goods and chattels of, in and to several goods, chattels, writings and sums of money in the first schedule or inventory to this inquisition annexed particularly mentioned, of the several values of the sums in the said schedule or inventory to the same respectively put and set, as by the jurors aforesaid appraised: And the jurors aforesaid on their oath aforesaid farther say, that the said *D. Norcott* and *J. Norcott* on the day of the issuing of the writ of extent aforesaid, to wit, on the said 5th day of *October* in the 7th year above said, and at the time of the caption of this inquisition, were possessed and intitled in our bailiwick, as of their own proper goods and chattels, in and to several writings and sums of money in the second schedule or inventory to this inquisition annexed particularly mentioned, and several persons in the second schedule or inventory in that behalf particularly named, were at the same times respectively possessed of the same writings and sums of money in trust for the same *D. N.* and *J. N.* all which said goods, chattels, debts, writings and sums of money, we the said sheriffs on the said day of the caption of this inquisition, by virtue of the writ aforesaid, have caused to be extended, and into the hands of the said Lord the King taken and seized: And the jurors aforesaid farther on their oath aforesaid say, that *D. N.* and *J. N.* in the said writ named, on the said 2d day of *July* in the 6th year of the reign of the Lord the King, on which day they first became debtors therein to the said Lord the King, or ever after hitherto had not, nor had either of them, any lands or tenements, nor have the said *D. N.* and *J. N.* or hath either of them, any other or more goods or chattels, debts, credits, specialties or sums of money in the hands of any

any person or persons whomsoever in the bailiwick of the said sheriffs, to the notice of the same jurors, which now can be extended, appraised, or into the hands of the said Lord the King taken or seized. In witness whereof as well the said sheriffs as the jurors aforesaid to this inquisition their seals have caused to be set the day and year abovesaid.

The first schedule.

The first schedule or inventory of the goods, chattels, writings and sums of money of Daniel N. and Joseph N. in the writ and inquisition annexed named, seized by William Billers, Esq; and George Caswell, Knt. sheriffs of the city of London, by virtue of the writ aforesaid in the inquisition aforesaid mentioned, to wit,

A subscription receipt (N^o 115) dated the 14th of April 1720, under the hand of Robert Knight, cashier of the governor and company of merchants of Great Britain trading to the S. S. and other parts of America, and for encouraging the fishery, for 600 l. lawful money of Great Britain, subscribed and paid to the said Robert Knight, for the use of the said governor and company of merchants for 500 l. capital stock in the said company at the rate of 300 l. per cent.

l. s. d.

500 0 0

In plate.

Twelve spoons, twelve knives, twelve forks, one saucepan, one mug, one salver, one pepper-box, two salts, two porringers, three tea-spoons, and a case for the knives and forks. Weight 94 ounces 13 penny weight, at 5 s. 4 d. per ounce.

20 0 0

The second schedule.

The second schedule or inventory of the writings and sums of money of Daniel and Joseph N. in the writ and inquisition annexed named, seized by William Billers, Esq; and George Caswell, Knt. sheriffs of the city of London, by virtue of the writ aforesaid in the inquisition aforesaid mentioned, whereof several persons within named were respectively possessed in trust for the same Daniel and Joseph.

One thousand pounds lottery annuity stock subscribed into the capital stock of the governor and company of merchants of Great Britain trading to the S. S. and other parts of America, and for encouraging the fishery, in the name of one Richard Norton in trust and for the use of the said D. and J. N.

1000 0 0

A subscription receipt for 1000 l. of lawful money of Great Britain, subscribed and paid by the said D. and J. N. to Robert Knight, cashier of the governor and company of merchants trading to the South-Seas and other parts of America, and for encouraging the fishery, for the use of the said governor and company of merchants for 500 l. capital stock in the said company, at the rate of 1000 l. per ann. in the name of one T. N. in trust and for the use of the said D. and J. N.

1000 0 0

Twenty pounds capital stock in the South-Sea company, in the name of one John B. in trust and for the use of the said D. N.

40 0 0

Ten shares in the capital or principal stock of the corporation or body politick, called by the name of the London Assurance, in the name of one R. N. in trust and for the use of the said D. and J. N.

150 0 0

2827 0 0

Prohibition.

Prohibition.

Byne and Dodderidge.

Pleas at Westminster before Edward Nevil, Knt. John Powell, Knt. and John Blencowe, Knt. justices of the Lord the King of the Bench of Hillary term in the 12th year of the reign of the Lord William the Third of England, 8cc. King. Roll 1609.

Suffex, to wit. **J**OHⁿ Dodderidge, clerk, rector of the rectory of the parochial church of *Whatlington* in the county aforesaid, was attached to answer as well the Lord the King as *Edward Byne* in a plea, why he prosecuted a plea against the same *Edward* in the court christian against the prohibition of the said Lord the King, &c. And whereon the same *Edward* by *Francis Doyly* his attorney complains, that whereas the said *Edward Byne* was seised in his demesne as of fee of and in a certain farm called *Walters Wisb* with the appurtenances in the parish of *Whatlington* aforesaid in the county aforesaid, of the yearly value of 20*l.* and the same *Edward*, and all other occupiers and possessors of the same tenements with the appurtenances for the time being, for time immemorial have used and been accustomed to pay and render to the rector of the rectory of the parochial church of *Whatlington* aforesaid for the time being, or his farmer of that rectory, yearly on the feast of *St. Michael* the Archangel, or whensoever after that feast he should be required, 40*s.* being 2*s.* for every 20*s.* rent of the tenements aforesaid with the appurtenances of and for the full and intire contentation, satisfaction and discharge of all and singular tithes whatever of, in and upon the tenements aforesaid with the appurtenances howsoever growing, arising, renewing or happening; which said 40*s.* yearly as aforesaid payable and paid, all and singular the rectors of the rectory of the church aforesaid for the time being, or their farmers of the rectory aforesaid for the whole time aforesaid, of the proprietors or occupiers of the same tenements with the appurtenances in full satisfaction, contentation, payment and discharge, and in the name and stead of all and singular tithes whatever of, in and upon the tenements aforesaid with the appurtenances howsoever growing, arising, renewing or happening, have received and had, and the custom and manner of tithing aforesaid for the tithes aforesaid for all the time aforesaid have inviolably observed: Nevertheless the said *John Dodderidge*, not ignorant of the premisses, contriving and intending him the said *Edward*, against the due form of the law of this kingdom of *England*, and against the form and effect of divers statutes for tithes, and the manner of tithing made and provided, and against the prescription, custom and manner of tithing aforesaid, unduly to aggrieve, oppress and fatigue, and also the said Lord the now King and his royal crown to disinheret, and the cognisance of the plea, which to the said Lord the now King and his royal crown, and not to the ecclesiastical court, in this behalf belongs, to another examination in the court christian to draw, the same *Edward* in the court christian before the reverend and excellent man *Thomas Briggs*, doctor of laws, of the reverend father in Christ *John*, by divine permission Lord bishop of *Cbichester*, in and thro' the whole archdeanry of *Lewis* in the diocese of *Cbichester* commissary or official principal lawfully constituted, or his surrogate or other judge whatever in that behalf competent, hath drawn in plea of and for the subtraction and non-payment of tithes, in a certain schedule to a certain libel affixed mentioned, craftily and subtilly libelling against the said *Edward* in the same court christian, in the manner and form following, to wit,

Imprimis,

The libel.

Imprimis, to wit, that the said *John Dodderidge*, clerk, in the months of *September, October, November, December, January, February* and *March* 1698, and in the whole year 1699, in every such years and months was and at present is rector of the rectory of the parochial church of *Wharlington* aforesaid, and of all and singular the tithes, rights and emoluments ecclesiastical whatever to the same rectory belonging and appertaining, and to and in the same rectory with all its rights and appurtenances rightfully and lawfully admitted, instituted and inducted, and for such and as such the same *John Dodderidge* was and is commonly called, held, had and reputed, openly, publicly and notoriously; and the party proponent propounds them jointly and severally, and of every item, as well of common right as of and from an ancient, laudable and lawfully prescribed custom, and for time immemorial inviolably observed, and in contradictory judgment often or once obtained, the right of receiving and having all and singular the tithes, rights, emoluments ecclesiastical whatsoever, and especially the tithes of things tithable in the schedule to these presents annexed mentioned, which schedule the party proponent desires and prays may be taken as here read and inserted, as is proper for him, and not otherwise, within the parish of *Wharlington* aforesaid, and the bounds, limits and places tithable of the same, arising, growing, renewing and happening to the rectors and their farmers of the rectory aforesaid for their times successively being, and so to the said *John Dodderidge* for the whole, and all the time that he hath been rector there, hath belonged and appertained, and so doth belong and appertain, and so to belong and appertain hath ought, and ought at present; and he propounds above. *Item*, that for these 20, 30, 40, 50, 60 and 80 years last past, and also for time out of mind, the rectors and their farmers of the rectory aforesaid in their times successively, the predecessor, and all and every the predecessors of the said *John Dodderidge*, the present rector there, were, as they ought to be, in the quiet, full and peaceable possession of the right, or as the right of taking, receiving and having all and singular the tithes of things tithable, rights and emoluments ecclesiastical, and especially the tithes of things tithable within written within the parish of *Wharlington* aforesaid, and the bounds, limits and places tithable of the same, arising, growing, renewing and happening, and them by themselves or their farmers have received, had, and to their own proper use converted, and every of them; and the said *John Dodderidge* for his time, saving the grievances within written, respectively hath had, taken, received, was and is, and hath ought to be, and ought at present; and he propounds as above. *Item*, that in all and singular the years and months in the first article of this libel mentioned, and in every more than one or some of the same months and years, the said *Edward Byne* within the parish of *Wharlington* aforesaid, and the bounds, limits and places tithable of the same, all and singular the tithes and things tithable, and the species of tithes in the schedule to these presents annexed specified, which schedule the party proponent desires and prays may be taken as here read and inserted, as is proper for him, and not otherwise, hath had, received, and to his own proper use converted and applied, and that the true value of the tithes, things tithable, and species of tithes in the schedule aforesaid mentioned and specified to the several sums and values respectively in the said schedule mentioned, and to which in the same they are respectively valued, and at the time when the respective tithes were due did amount and doth amount; and nevertheless the party proponent propounds of every other number and quantity, and price or value of the things and species of tithes aforesaid, and of such and so much, as and how much by lawful proof in the event of this suit shall appear; and he propounds as above. *Item*, that among other good laws and statutes of this kingdom of *England*, especially in the 13th chapter of the sessions of Parliament in the second and third years of the reign of *Edward the Sixth*, late King of *England*, it is among other things enacted in the tenor of the words following, to wit, If any person carry away his corn or hay, or his other predial tithes, before the tithe thereof be set forth, or willingly withdraw his tithes of the same, or of such other things whereof predial tithes ought to be paid, or do stop or let the parson, vicar, proprietor, owner or other their deputies or farmers, to view, take and carry away their tithes, by reason whereof the said tithe or tenth is lost, impaired or hurt; if then upon due proof thereof made before the spiritual judge, or any other judge to whom heretofore he might have made complaint, the party so carrying away, withdrawing, letting or stopping, shall pay the double value of the tenth or tithe so taken, lost, withdrawn or carried away, over and besides the costs, charges and expences of the suit in the same, the same to be recovered before the ecclesiastical judge, according to the King's ecclesiastical laws, as in the said statute among other things more fully is contained; and he propounds as above. *Item*, that before named *E. B.* for the whole and all the time in this behalf libellate was and is a meer layman, and no right or title had or hath in the rectory of *Wharlington* aforesaid, or in the tithes or rights ecclesiastical to the same belonging: Nevertheless all and singular the tithes and things

2 & 3 E. 6.
c. 13. §. 2.
par. 2.

things tithable in the schedule to these presents annexed mentioned, from the place or places in which they grew, renewed and ought to be tithed, before the tithes thereof due, or the tenth part of the same from the other nine parts he had divided or separated, or otherwise with the before named *John Dodderidge* had compounded for the same, beside and against the will of the same *John Dodderidge* did take and carry away, or so to be taken and carried away did cause and command, not regarding the penalty in the statute above in the fifth article libellate and mentioned. *Item*, that the said *Edward Byne* to pay and deliver to the before named *John Dodderidge*, or his party, the tithes of the things tithable aforesaid above libellate, or otherwise duly to compound with the said *John Dodderidge* for the same, on the part of the said *John Dodderidge*, often or once earnestly and lawfully asked and required, the premisses nevertheless, or any of them to do, hath expressly denied and refused, or at least unjustly hath deferred, and at present doth defer; and he propounds as above. *Item*, that the said *Edward Byne* was and is a parishioner of *Wharlington* aforesaid in the archdeanary aforesaid, and for that reason to the jurisdiction of the court notoriously subject and liable; and he propounds as above. *Item*, that of and upon the premisses all and singular it was and is, on the part and by the part of the before named *John Dodderidge*, to you Sir the official aforesaid and this court rightfully and lawfully querelate; and he propounds as above. *Item*, that the premisses all and singular were and are true, publick, notorious, manifest also and famous, and of and upon the same hath been, and is the publick talk and report; wherefore proof being made of the right in this behalf requisite, the party proponent prays right and justice to be done and administered to him with effect, and the said *Edward Byne* the penalty in the statute aforesaid to have incurred, and to the payment of the tithes aforesaid, or the double value of them, as it shall appear to be forced and compelled, and also in the charges of the suit on the part and by the part of the before named *John Dodderidge* in this behalf expended, and to be expended, and to him or his party to be condemned to pay, and condemned to the due payment of the same lawfully to be forced and compelled by you, and your definitive sentence of your final decree in this behalf to be made, and farther to be done, order'd and decreed in the premisses, and every thing concerning them, what shall be the right and reason of the premisses propounding jointly and severally, and not obliging himself to prove all and singular the premisses, nor to the burden of a superfluous proof, against which he protests, but so far as he shall prove in the premisses so far he may obtain in his demand, the benefit of the law in all things always saved, your office Sir the judge aforesaid humbly imploring, the schedule of which in the libel aforesaid mention is made follows. *Imprimis*, That the said *Edward Byne* named in the libel hereunto annexed, in the years and months in the first article of the said libel mentioned, all and every, some or one of them had, held, occupied, possessed and enjoyed certain lands, fields and grounds, situate, lying and being within the parish of *Wharlington*, and tithable places thereof, and in and upon the same, and within the said parish and tithable places thereof had and kept going, feeding, coming, renewing, increasing, happening, fallen, cut and mown these several quantities, parcels and numbers of hay, cattle, and other things following, *viz. Imprimis*, 12 acres of meadow-ground which he had caused to be mown, and thereupon had four and twenty wain-loads or carriages of hay mowed and made in the year 1699, libellate each wain-load or carriage thereof worth twenty shillings of lawful money of *England*. *Item*, four acres of hop-ground in the year 1699, libellate each acre worth fifteen pounds of like lawful, &c. *Item*, one piece of ground sowed with hemp-seed, and thereupon had hemp and hemp-seed worth twenty shillings of like lawful, &c. *Item*, one piece of ground sowed with flax-seed, and thereupon had flax and flax-seed worth thirty shillings of like lawful, &c. *Item*, four milk kine every year libellate the milk of each cow worth weekly three shillings of like lawful, &c. *Item*, four calves yearly, each worth at tithing-time eight shillings of like lawful, &c. *Item*, twenty acres of coppice-ground, and from thence cut and sold yearly and every year libellate six cord of wood, each cord worth eight shillings of like lawful, &c. *Item*, six barren, dry, idle fatting-cattle yearly, the depasture of each of them worth weekly twelve pence of like lawful, &c. *Item*, twenty ewe sheep yearly, and of them had yearly twenty lambs, each worth at tithing-time three shillings of like lawful, &c. *Item*, one hundred weight of wool yearly, shorn from sixty sheep yearly, each pound worth at shearing-time twelve pence of like lawful, &c. *Item*, twenty pigs yearly, and every year each worth at tithing-time three shillings of like lawful, &c. *Item*, ten hens, and of them had five hundred eggs, every four of them worth one penny. *Item*, twenty gollings, or young geese, each of them worth twelve pence. *Item*, twenty young turkies, each of them worth twelve pence. *Item*, apples, and other orchard fruit, and garden fruit and herbs of all sorts, worth yearly twenty shillings, as by the copy of libel and schedule aforesaid here in court

The libel.

produced more fully is manifest and appears; and him the said *Edward* in the said court christian before the said judge spiritual to appear, and to the same *John* of and upon the premises to answer hath unjustly compelled: And altho' the same *Edward* in every-year of the years aforesaid on the said feast of *St. Michael* the Archangel, at *Wbatlington* aforesaid, was ready and offered, and yet is ready to pay, the said *John* the said 40 s. according to the form and effect of the prescription and manner of tithing aforesaid, and the same in the court christian aforesaid before the said judge spiritual, according to the custom and manner of tithing aforesaid, in the suggestion aforesaid specified, against the said *John* hath pleaded, alledged, and the same with inevitable truth and evidence hath offered to prove: Nevertheless the same judge spiritual hath altogether refused to admit or receive that plea and allegation, and the said *John* him the said *Edward*, by the definitive sentence of the said court christian of and upon the premises to cause to be condemned, with all his might endeavours and daily contrives, in contempt of the said Lord the now King, and to the manifest damage, prejudice, impoverishment and grievance of him the said *Edward*, and against the form of the law of this kingdom of *England*, and the prescription aforesaid, altho' the said *E. Byne* on the first day of *August* in the 12th year of the reign of the Lord the now King, at *Wbatlington* aforesaid, delivered to the said *John Dodderidge* the writ of the Lord the King of prohibition to the contrary thereof; yet the said *John* hath not ceased farther to prosecute that plea, but the plea aforesaid in the said court christian hath farther prosecuted the writ of the said Lord the King of prohibition to him to the contrary directed in any wise notwithstanding, in contempt of the said Lord the now King, and to the great damage of the said *E. Byne*, and contrary to the prohibition aforesaid; whereby he says that he is prejudiced, and hath damage to the value of 20 l. And therefore he produces the suit, &c.

Plea for a
consultation.

That the
rector always
received the
tithe in kind;
and because
the plaintiff
withdrew
them he sued
him in the
spiritual court.

Traverse of
the modus.

And the said *John* by his attorney comes and defends the force and injury when, &c. and says, that he the said *John* hath not prosecuted the plea in the court christian against him the said *Edward* after the royal prohibition to him to the contrary thereof first directed and delivered, in the manner and form as the said *Edward*, who as well, &c. above against him complains: And of this he puts himself on the country: And the said *Edward*, who as well, &c. likewise, &c. But to have and obtain the writ of the Lord the King of consultation in this behalf, the same *John* says, that all the tenants, possessors and occupiers of the said farm with the appurtenances in the parish of *Wbatlington* aforesaid in the country in the declaration aforesaid above mentioned for the time being, have from time out of mind render'd, yielded and paid, and for all the said time have been used, accustomed and ought to render, yield and pay to the rector of the rectory of the parochial church of *Wbatlington* aforesaid for the time aforesaid being, all and all manner of tithes of grain, hay, and other things tithable in and upon the same lands and farm with the appurtenances yearly for all the same time happening, growing or renewing, or otherwise, with the same rector or his farmer, or deputy of that rectory for the time being, for those tithes have agreed and compounded; and because the said *Edward* the tithes aforesaid in the libel and declaration aforesaid mentioned in and upon the farm and tenements aforesaid, called *Walters Wisb*, with the appurtenances as aforesaid, in the occupation of the said *Edward* in the said years and times in the libel and declaration aforesaid expressed and specified, growing, renewing, arising and happening, from the same *John*, being then and yet rector of the parochial church of *Wbatlington* aforesaid, withdrew, and those tithes to the same *John* in kind refused to pay, the same *John* prosecuted the said *Edward* in the said court christian before the said judge spiritual before the issuing of the said writ of prohibition in the declaration aforesaid specified, as he well might; without that, that he the said *Edward*, and all other occupiers and proprietors of the same tenements with the appurtenances for the time being, were time out of mind used and accustomed to pay and render to the rector of the rectory of the parochial church of *Wbatlington* aforesaid for the time being, or his farmer of that rectory, yearly on the feast of *St. Michael*, or whensoever after that feast he should be required, 40 s. being 2 s. for every 20 s. rent of the tenements aforesaid with the appurtenances of and in the full and whole contentation, satisfaction and discharge of all and singular tithes whatever of, in and upon the tenements aforesaid with the appurtenances howsoever growing, arising, renewing or happening; which said 40 s. yearly as aforesaid payable and paid, all and singular the rectors of the rectory of the church aforesaid for the time being, or their farmers of the rectory aforesaid for the time being, for all the time aforesaid of the proprietor or occupier of the same tenements with the appurtenances in full satisfaction, contentation, payment and discharge, and in the name and stead of all and singular tithes whatever of, in and upon the tenements aforesaid with the appurtenances howsoever growing, arising, renewing or happening, have accepted, received and had, and the custom and manner of tithing aforesaid for the tithes aforesaid for all the time aforesaid have inviolably observed, as the said *Edward*, who as well, &c. by his declaration above

above supposes: And this he is ready to verify: Wherefore he prays judgment, and the writ of the Lord the King of consultation to him in this behalf to be granted, &c.

And the said *Edward*, who as well, &c. says, that he by any thing by the said *John* before alledged ought not to be precluded from having his action aforesaid thereof against him the said *John*, nor ought the writ of the Lord the King of consultation to be granted to the said *John*, because he as before says, that he the same *Edward*, and all other occupiers and proprietors of the same tenements with the appurtenances for the time being, have time out of mind been used and accustomed to pay and render to the rector of the rectory of the parochial church of *Wharlington* aforesaid for the time being, or his farmer of that rectory, yearly on the feast of *St. Michael* the Archangel, or whensoever after that feast he should be required, 40 s. being 2 s. for every 20 s. rent of the tenements aforesaid with the appurtenances of and for the full and whole contentation, satisfaction and discharge of all and singular tithes whatever of, in and upon the tenements aforesaid with the appurtenances howsoever growing, arising, renewing or happening; which said 40 s. yearly as aforesaid payable and paid, all and singular the rectors of the rectory of the church aforesaid for the time being, or their farmers of the rectory aforesaid, of the proprietor or occupier of the same tenements with the appurtenances, in full satisfaction, contentation, payment and discharge, and in the name and stead of all and singular tithes whatever of, in and upon the tenements aforesaid with the appurtenances howsoever growing, arising, renewing or happening, have accepted, received and had, and the custom and manner of tithing aforesaid for all the time aforesaid have inviolably observed, in manner and form as he the said *Edward*, who as well, &c. by his declaration aforesaid above hath supposed: And this he prays may be inquired of by the country: And the said *John* likewise: Therefore the sheriff is commanded, that he cause to come here in the Octave of the Purification of the Blessed *Mary* 12, &c. and who neither, &c. to recognize, &c. because as well, &c.

Suffex, to wit. **T**HE jury between *Edward Byne*, who as well, &c. plaintiff, and *John Dodderidge*, clerk, rector of the rectory of the parochial church of *Wharlington* in the county aforesaid, in a plea of prohibition, is respited here until from the day of *Easter* in 15 days, unless the justices of the Lord the King, assigned to take assises in the county aforesaid, by the form of the statute, &c. shall first come on *Friday* the 4th day of *April* at *Eastgrinstead* in the county aforesaid, for want of jurors, because none come; therefore let the sheriff have the bodies, &c. And be it known, that the writ thereof the justices here in court have delivered to the under-sheriff of the county aforesaid in form of law to be executed, &c.

Suffex, to wit. **A**fterwards the day and year within contained, before *John Holt*, Knt. chief justice of the Lord the King, assigned to hold pleas before the King himself, and *Robert Tracey*, Esq; one of the barons of the Exchequer of the said Lord the King, justices of the said Lord the King, assigned to take assises in the county of *Suffex*, by the form of the statute, &c. comes the within named *Edward Byne*, who as well, &c. by his attorney within contained, and the within written *John Dodderidge*, clerk, altho' solemnly called doth not come, but hath made default; therefore the jury, whereof mention is within made, is taken against him by default; whereupon the jurors of that jury being called, some of them, to wit, *J. Hicks*, *J. Grover* and *T. Parsons* come, and on that jury are sworn; and because the rest of the jurors of the same jury have not appeared, therefore others from the by-standers by the sheriff of the county aforesaid hereto elected, at the request of the said *Edward Byne*, who as well, &c. and by the command of the justices aforesaid, are added anew, whose names are annexed to the panel within written, according to the form of the statute in such case made and provided; and the jurors so added anew, to wit, *James Life*, *W. Nicholas*, *W. Osmer*, *John Napper*, *Richard Scragg*, *John Elliott*, *John Rogers*, *Henry Barnes* and *Edward Kempe*, being called likewise come, who to say the truth of the within contained, together with the other jurors aforesaid first impanelled and sworn, were elected, tried and sworn, and from the bar here to give their verdict thereon to talk together retired, and having thereon talked together and agreed to give that verdict to the bar here returned; whereupon the said *Edward Byne*, who as well, &c. altho' solemnly called doth not come, nor farther prosecute his writ within specified against the said *John Dodderidge*, &c.

Morris against Oldys and another.

Warrant of
attorney in a
prohibition.

London, to wit. **J**ames Morris, who as well for the Lord and Lady the King and Queen as for himself in this behalf prosecutes, puts in his place *J. Lilly* his attorney, against *William Oldys*, doctor of laws, and *Henry St. George*, Knt. Clarenceux King at arms, in a plea of trespass and contempt, for that they prosecuted in the court of honour of *Henry Duke of Norfolk*, Lord Earl Marshal of *England*, after the royal prohibition to the contrary thereof to them directed and delivered.

Declaration
on a prohibi-
tion to the
court of ho-
nour to stay a
suit there for
marshalling a
funeral with-
out licence.
Farr. Rep.
125.

9 H. 3. c. 29.

London, to wit. **B**E it remember'd, that on *Friday* next after the morrow of the Holy *Trinity* in that same term before the Lord and Lady the King and Queen at *Westminster* came *James Morris*, who as well for the Lord and Lady the King and Queen as for himself in this behalf prosecutes by *J. L.* his attorney, and produced here in the court of the said Lord and Lady the King and Queen then there his certain bill against *W. Oldys*, doctor of laws, and *Henry St. George*, Knt. Clarenceux King at arms, in the custody of the marshal, &c. in a plea of trespass and contempt, for that they prosecuted in the court of honour of *Henry Duke of Norfolk*, Lord Earl Marshal of *England*, after the royal prohibition to them to the contrary thereof directed and delivered; and there are pledges to prosecute, to wit, *John Doe* and *Richard Roe*; which said bill follows in these words, to wit, *James Morris*, who as well for the Lord and Lady the King and Queen as for himself in this behalf prosecutes, complains of *W. Oldys*, doctor of laws, and *Henry St. George*, Knt. Clarenceux King at arms, being in the custody of the marshal of the *Marshalsea* of the Lord and Lady the King and Queen before the King and Queen themselves, in a plea of trespass and contempt, for that they prosecuted in the court of honour of *Henry Duke of Norfolk*, Lord Earl Marshal of *England*, after the royal prohibition to them first to the contrary thereof directed and delivered, for this, to wit, that whereas by the statute of *Magna Charta* of the liberties of *England*, made at a Parliament held at *Westminster* in the county of *Middlesex* in the 9th year of the reign of the Lord *Henry the Third*, late King of *England*, it is ordained and established, That no freeman should be taken or imprisoned, or be disseised of his freehold or liberties, or free customs, or be outlawed or exiled, or any otherwise destroyed; nor the Lord the King would not pass upon him nor condemn him but by lawful judgment of his peers, or by the law of the land; and that the same late King would sell to no man, would not deny or defer to any man either justice or right, as in the said statute more fully is contained: And whereas also the said *James Morris* is a freeman of this kingdom, and ought to enjoy the liberties and free customs of this kingdom of *England*, and contrary to the same ought not in any wise to be disquieted or molested: Nevertheless the said *W. Oldys*, doctor of laws in the court of honour of the said *Henry Duke of Norfolk*, Lord Earl Marshal of *England*, advocate of the King and Queen, of the premisses not ignorant, but contriving and intending him the said *James Morris* unjustly and wrongfully to oppress, and with very great expences to fatigue, and from the common law of this kingdom of *England* to derogate, in the said court of honour of the said *Henry Duke of Norfolk* before him the said *Henry Duke of Norfolk*, then and yet being Lord Earl Marshal of *England*, at *London* aforesaid, to wit, in the parish of *St. Mary le Bow* in the ward of *Cheape*, exhibited certain articles against him the said *James Morris*, by which said articles the said *Henry Duke of Norfolk*, at the promotion of the said *W. Oldys*, objected and articulated, that for 2, 3, 4, 5, 6, 7, 8, 9, 10, and more years elapsed, the said *Henry St. George* was and is one of the Kings at arms, to wit, Clarenceux King at arms, by royal authority, by virtue of a commission under the great seal of *England* rightfully and lawfully constituted, and for such commonly reputed, and that the cognisance, correction and disposition of arms and ensigns, and the ordering, direction and disposition of funeral pomps to the Kings at arms, according to their respective offices, and in their respective provinces, and to their officers in that behalf lawfully constituted, and so to the said *Henry St. George*, Knt. Clarenceux King at arms, within his province, and to the said Clarenceux King at arms for the time being, from time to time hath belonged and so doth belong, and ought to belong; and that the premisses aforesaid were and are to the said *James Morris* well known, at least that the said *James* hath heard it so said. *Item*, that the said *Henry St. George*, Knt. Clarenceux King at arms, was and is King at arms at the south, east and west parts of this kingdom of *England*, to wit, from the river called *Trent* towards the south; and that the said *J. Morris* within the parish of *St. Vedast*, otherwise *Foster-lane*, *London*, and within the province of the said Clarenceux King at arms, for some years past hath dwelt and now doth dwell, and to the jurisdiction of the court aforesaid was and is notoriously subject and liable. *Item*, that the said

James

James Morris never had nor hath any licence or authority from the said *Henry St. George*, Clarenceux King at arms, to paint, or cause and procure to be painted, any arms and escutcheons, or shields of arms and escutcheons, or to marshal the funerals of any person or persons within his said province dying and buried, or to be buried. Item, that notwithstanding the premises, but the same being true, the said *James Morris* well knowing, in the months of *March, April, May, June, July, August, September, October, November, December, January, February* and *March*, in the year of the Lord 1698, or of the same months in more than one or some, without any lawful authority or faculty in that behalf obtained, and in contempt of the jurisdiction of the said *Henry Duke of Norfolk*, and the office and law of arms, and to the manifest injury of the nobility and gentry of this kingdom of *England*, the funeral pomps of divers deceased within the said province of the said Clarenceux King at arms dying and buried took upon himself to order, direct and marshal, and the same did order, direct and marshal, and the shield of arms for them painted, or caused to be painted, and the same funeral pomps, or very many, in manner and form by the law of arms in no manner to be approved and permitted, and in manner and form also to the degrees of the said deceased in no wise proper, permitted, or to be permitted, to order, direct and marshal, however presumed and durst; and especially in the month of *July*, or thereabouts, in the year of the Lord 1691, he the said *James Morris* the funeral pomp of the Lady *Judith Herne*, widow, of *Canbury* in or near the parish of *St. Mary Islington* in the county of *Middlesex*, deceased, in the manner and form in the first schedule to the articles aforesaid annexed described, or in a manner and form very like; which said schedule follows in these words, letters and figures, to wit, the first schedule, The manner of the Lady *Herne's* lying in state in *Brewers-hall* the 14th *July* 1691. All the hall from the top to the bottom was hung with black, and the upper end of the said hall where the corpse was placed was likewise ceiled with bays, the corps was covered with a pall of black velvet lined with white sarcenet, and upon the pall 12 silk escutcheons pinned thereon; and at the end of the said corps was a Majesty, and between twenty and thirty silk and buckram escutcheons, and upon stands of each side of the corps were between thirty and forty great wax tapers, besides those that were up in sconces, which made in all about the corps between sixty or seventy; all this was within a rail covered with black bays. *William Russell* the coffin-maker, and *James Morris* the joiner, marshalled this funeral on the said 14th *July* 1691. They put eight aldermen to support the pall, and placed the mourners, and invited guests in order. And in the month of *November*, or thereabouts, in the year of the Lord 1691, the funeral pomp of *Towers* deceased, in the parish church of *St. Andrew Holborn, London*, buried, in the manner and form in the second schedule to the articles aforesaid annexed described, or in a manner and form very like; which said schedule follows in these words, letters and figures, to wit, the second schedule, Mrs. *Towers* November 6th 1691, buried at *St. Andrew's Holborn*; the corps was laid in state in one of the new houses at the farther end of *Grays-Inn-Lane*, the room was hung with deep mourning, the floor was covered with black bays, the room adorned with black escutcheons, and great number of wax lights in silver sconces and candlesticks; those escutcheons upon the pall were on silk. And in the month of *November*, or thereabouts, in the same year 1691, the funeral pomp of *De Nen* deceased, and in the parish church of *St. Andrew Underbass, London*, buried, in the manner and form in the third schedule to the articles aforesaid annexed described, or in a manner and form very like; which said schedule follows in these words, letters and figures, to wit, Madam *De Nen*, November 6th 1691, buried at *St. Andrew's Underbass* from Cloth-workers hall; the corpse was set in state in a kind of alcove in close mourning, both the cieling and floor being covered with black bays at the upper end of the hall, the inner-side whereof was adorned with double rows of escutcheons, and some of them at the head were placed in the nature of a Majesty; about the body were placed on stands and sconces a great number of wax lights; immediately before the corpse was a rail covered with light mourning, and thereon affixed eight plumes of black feathers; the great hall and passage leading to it was ranged with bayes, and a row of escutcheons and lights, in fact, but unduly and against the law of arms, and in contempt of the jurisdiction and authority of the said *Henry Duke of Norfolk*, and the office and law of arms to order, direct and marshal, durst and presumed, and the persons attending the same funerals did put and place, and the manner of proceeding directed; and that this was and is true, publick and notorious, manifest likewise and famous, and of and upon the same was and at present is the publick talk and discourse. Item, that within the time in the preceding article mentioned, the said *James Morris* to

desist from such misdemeanors, and particularly from the marshalling, ordering and directing of the funeral pomp of any deceased, often, or at least once, on the part of the said *Henry St. George* was admonished; nevertheless he hath refused, and yet doth refuse to desist, at least hath unjustly delayed, and doth at present delay, as by the copy of the articles and schedules aforesaid here in court produced more fully appears: And the said *W. Oldys* and *Henry St. George* the same *James Morris* in the said court of honour of the said Lord Earl Marshal of *England* before the said *Henry Duke of Norfolk*, then and yet being Earl Marshal, for the reason aforesaid, to appear and of and upon the premises to answer have unjustly compelled; and the said *James Morris* by the definitive sentence of the said court of honour of the Lord Earl Marshal of *England* of and upon the premises to cause to be condemned with all their power endeavour; and altho' the writ of the said Lord and Lady the King and Queen of prohibition to the said *W. Oldys* and *Henry St. George*, 28th day of *May* in the 4th year of the reign of the said Lord and Lady the now King and Queen, at *London* aforesaid in the parish and ward aforesaid, to the contrary thereof was directed and delivered: Nevertheless the said *W. Oldys* and *Henry St. George* the plea aforesaid in the said court of honour of the said *Henry Duke of Norfolk*, Lord Earl Marshal of *England*, after the prohibition aforesaid to them first to the contrary thereof directed and delivered, to wit, the 30th day of *May* in the year last aforesaid, at *London* aforesaid in the parish and ward aforesaid, have farther prosecuted, and in that plea proceeded, in contempt of the said Lord and Lady the now King and Queen, and to the manifest damage, prejudice, grievance and impoverishment of him the said *James Morris*, and against the form of the statute aforesaid; whereby the said *James Morris*, who as well, &c. says that he is prejudiced, and hath damage to the value of 100 l. And therefore as well for the Lord and Lady the King and Queen as for himself he produces the suit, &c.

Plea.
Prescription.

And the said *W. Oldys* and *Henry St. George* in their proper persons come and say, that the court of Constable and Marshal of *England* is an antient court, and for time immemorial was held, and hath been accustomed to be held, before the Constable of *England* and the Earl Marshal of *England* for the time being, or before the Constable of *England* for the time being only when the office of Marshal of *England* was vacant, or before the Earl Marshal of *England* for the time being only when the office of Constable of *England* was vacant, in which said court the Constable and Earl Marshal of *England* for the time being when the office of Earl Marshal of *England* was vacant, and the Earl Marshal of *England* only for the time being when the office of Constable of *England* was vacant only have had, and for time immemorial have been accustomed to have, the cognisance of all pleas and causes in any wise touching or concerning arms, ensigns, genealogies and funeral poms arising within this kingdom of *England*, and no other court in such pleas or causes have ever intermeddled, nor jurisdiction thereof in any wise for all the time aforesaid hath had or claimed; and that the said suit before the said *Henry Duke of Norfolk*, Earl Marshal of *England*, prosecuted, whereof the said *James Morris* above now complains, was prosecuted by the said antient court of Constable and Marshal of *England* before the said *Henry Duke of Norfolk*, being then and yet Earl Marshal of *England*, the office of Constable of *England* being then and yet vacant, of and for matters and causes touching and concerning arms, ensigns and funeral poms: And the said *W. Oldys* and *Henry St. George* farther say, that by a certain act made and provided in a Parliament of the Lord *Richard* the Second, late King of *England*, held at *Westminster* in the county of *Middlesex* on *Monday* next after the feast of *St. Hillary* in the 13th year of his reign, it was enacted by the authority of the same Parliament, That if any would complain that any plea be commenced before the Constable and Marshal that might be tried by the common law of the land, the same plaintiff should have a privy seal of the King without difficulty, directed to the said Constable and Marshal to surcease in that plea until it be discussed by the King's council, if that matter ought of right to pertain to that court, or otherwise to be tried by the common law of the realm of *England*, and also that they should surcease in the mean time, as by the same act more fully appears: And the same *W. Oldys* and *Henry St. George* farther say, that the said court of Constable and Marshal of *England* from time immemorial was a court of so much honour and dignity that the same court never was prohibited or hinder'd, nor for all the said time immemorial hath been accustomed to be prohibited or hinder'd from holding any pleas in the same court of Constable and Marshal, otherwise or in other manner than according to the form of the statute aforesaid: And this the same *W. Oldys* and *Henry St. George* are ready to verify: Wherefore they don't apprehend that the court here will or ought to take farther cognisance of the plea aforesaid, &c.

13 R. 2. c. 2.

And the said *James Morris* prays leave to imparl to the plea aforesaid; and it is granted ^{Imparlatice.} him, &c. And upon this day thereof is given to the parties aforesaid before the Lord and Lady the King and Queen at *Westminster* until *Monday* next after three weeks of *St. Michael*, to wit, to the said *James Morris* to imparl to the plea aforesaid, and then to reply, &c. On which day before the Lord and Lady the King and Queen at *Westminster* come as well the said *James Morris* by his attorney aforesaid, as the said *William Oldys* and *Henry St. George* in their proper persons: And the same *James Morris* farther prays leave to imparl to the plea aforesaid; and it is granted him, &c. And upon this a day thereof is farther given to the parties aforesaid before the Lord and Lady the King and Queen at *Westminster* until *Monday* next after the Octave of *St. Hillary*, to wit, to the said *James Morris* to imparl to the plea aforesaid, and then to reply, &c. On which day before the Lord and Lady the King and Queen at *Westminster* come as well the said *James Morris* by his attorney aforesaid, as the said *William Oldys* and *Henry St. George* in their proper persons; and the said *James Morris* says, that by any thing by the said *William Oldys* and *Henry St. George* above in pleading alledged, the court of the said Lord and Lady the King and Queen now here ought to take farther cognisance of the said plea against the said *William Oldys* and *Henry St. George*, because by protesting that there is not any such court from time immemorial of Constable and Marshal, as the said *William Oldys* and *Henry St. George* in their plea aforesaid have above alledged, for replication nevertheless to that plea the same *James* Demurrer. says, that the plea aforesaid, and the matter in the same contained, are not sufficient in law to preclude the court of the Lord and Lady the King and Queen here from taking farther cognisance of the plea aforesaid against the said *William Oldys* and *Henry St. George*, to which the said *James Morris* hath no necessity, nor is by the law of the land obliged, in any manner to answer: And this he is ready to verify: Wherefore he prays judgment, and that the court of the Lord and Lady the King and Queen now here may proceed to take farther cognisance of the said plea against the said *William Oldys* and *Henry St. George*, &c.

And the said *W. Oldys* and *Henry St. George* say, that the plea aforesaid by them the said Joinder. *W. Oldys* and *Henry St. George* in manner and form aforesaid above pleaded, and the matter in the same contained, are good and sufficient in law to preclude the court of the Lord and Lady the King and Queen now here from taking farther cognisance of the plea aforesaid against them the said *W. Oldys* and *Henry St. George*; which said plea, and the matter in the same contained, the same *W. Oldys* and *Henry St. George* are ready to verify and prove, as the court, &c. And because the said *James Morris* doth not answer to that plea, nor hitherto in any wise deny it, the same *W. Oldys* and *Henry St. George* as before pray judgment, if the court of the Lord and Lady the King and Queen now here will take farther cognisance of the plea aforesaid, &c. But because the court of the said Lord and Lady the King and Queen now here are not yet advised to give their judgment of and upon the premisses, day therefore is given to the parties aforesaid before the Lord and Lady the King and Queen at *Westminster* until day next after to hear their judgment of and upon those premisses, because the court of the said Lord and Lady the King and Queen now here thereof not yet, &c.

Page and Hugbes.

England, to wit. **B**E it remember'd, that on day next after in this same term ^{Cro. El. 87, 648.} before the Lady the Queen at *Westminster* comes *Mary Page*, the wife ^{1 Inst. 430.} of *Francis Page*, by *A. B.* her attorney, and gives the court of the Lady the Queen now ^{2 Lev. 49, 63, 66.} here to understand and be informed, that whereas all and all manner of pleas of trespass on the case within this kingdom of *England* arising and happening to the Lady the now Queen ^{Suggestion for a prohibition for words defamatory. Lutw. 1037.} and her royal crown, and to the proper court of the said Lady the Queen, according to the laws and customs of this kingdom of *England*, do belong and appertain: Nevertheless one *Elizabeth Hugbes*, the wife of *Thomas Hugbes* an inhabitant of *Ealing*, otherwise *Yealing*, in the county of *Middlesex* in the diocese of *London*, not ignorant of the premisses, but contriving her the said *Mary* wrongfully to aggrieve and oppress, her the said *Mary*, being likewise an inhabitant within the parish aforesaid, to another proof in the court christian, before the reverend an excellent man *Henry Newton*, doctor of laws of the consistory court of *London*, official principal lawfully constituted, against the due form of law of this kingdom of *England*, and against the custom aforesaid, for a certain supposed cause of contempt, scandal and disgrace of the said *Elizabeth Hugbes*, hath unjustly drawn in plea to answer to certain articles by the said *Eliz.* in the same court christian against her the said *Mary* in the premisses exhibited and promoted, craftily and subtilly there articulating and objecting, that the said *Mary* in the months of *March*, *April* and *May* 1702, within the said parish of

of *Ealing*, otherwise *Yealing*, in the county of *Middlesex* aforesaid, and other parishes and publick places to the same near and adjoining, the same *Elizabeth* wickedly and maliciously defamed, and some defamatory words to the infamy and diminution of the estate, name and good fame of the said *Elizabeth Hughes* founding and tending, in these *English* words following, or others in effect like them and importing the same sense, to wit, You (*meaning the said Elizabeth*) are a whore, and have got the pox, and it has eat the teeth out of your head, and you (*again meaning the said Elizabeth*) have given it to your husband, openly and publickly spoke, uttered, pronounced and published; and the said *Elizabeth* her the said *Mary* in the said court christian before the judge spiritual of and upon the premisses to appear hath wrongfully obliged, and the same *Mary* thereupon there to answer, and in the premisses to cause to be condemned with all her power endeavours and daily contrives, in contempt of the said Lady the now Queen, and against the laws and customs of this kingdom of *England*, and to the manifest damage, prejudice and grievance of her the said *Elizabeth*: And this she is ready to verify: Wherefore the same *Mary*, the aid of the court of the said Lady the Queen now here most humbly imploring, prays remedy by the writ of the said Lady the Queen of prohibition to the said judge spiritual of the court christian, or other competent judge in this behalf whatever, in form of law to be directed, to prohibit him from holding the plea aforesaid the premisses aforesaid any wise concerning farther before him; and it is granted her, &c.

Bettenson, Bart. and Henschman, Esq; and another.*

Judgment by
default in pro-
hibition.

AND the said *Humphry* and *William* by *J. T.* their attorney come and defend the force and injury when, &c. and nothing in bar or preclusion of the said action of the said *Thomas*, who as well, &c. say; whereby the said *Thomas*, who as well, &c. remains against the said *Humphry* and *William* therein undefended; wherefore the said *Thomas*, who as well, &c. his damages, by reason that they the said *Humphry* and *William* as aforesaid prosecuted in the said court christian after the prohibition aforesaid to them to the contrary directed and delivered, against the said *Humphry* and *William* ought to recover: But because it is unknown what damages the said *Thomas*, who as well, &c. hath sustained on that account, the sheriff is commanded, that by the oath of good and lawful men of the county aforesaid he diligently inquire what damages the said *Thomas*, who as well, &c. hath sustained, as well on that account as for his costs and charges by him about his suit in this behalf expended, and the inquisition which, &c. he certify here from the day of the Holy Trinity in three weeks, under the seal, &c. and the seals, &c. On which day here comes the said *Thomas*, who as well, &c. by his attorney aforesaid; and the sheriff hath not returned the writ, therefore as before let another writ thereof be made to him in form aforesaid, returnable here from the day of St. Michael in three weeks: On which day here comes the said *Thomas*, who as well, &c. by his attorney aforesaid; and the sheriff, to wit, *G. C. Knt.* and *W. B. Esq;* hath now sent here a certain inquisition taken before him at the three Tuns in Brook-street near Holborn in the county aforesaid on the 18th day of October last past, by the oath of 12, &c. whereby it is found, that the said *Thomas*, who as well, &c. hath sustained damages by reason of the premisses, besides his costs and charges by him about his suit in this behalf expended, to 5*l.* and for those costs and charges to 20*s.* Therefore it is considered, that the said *Thomas*, who as well, &c. do recover against the said *Humphry* and *William* his damages aforesaid to 6*l.* by the inquisition aforesaid in form aforesaid found, as also 49*l.* to the same *Thomas* at his request for his costs and charges aforesaid by the court here of increase adjudged; which said damages in the whole amount to 55*l.* And let the said *Humphry* and *William* be taken, &c.

Sign'd 9th
November
7 Geo.

Oldham

Oldham against Pepper.

P. 33 C. 2.

England, to wit. **B**E it remember'd, that on *Wednesday* next after 15 days of *Easter* in Suggestion for a prohibition into court *John Oldham* in his proper person, and gives the court here to understand and be informed, that whereas one *Robert Pepper* doctor of laws, of the consistory court of the bishop of *Norwich* official principal, had caused to be cited him the said *John Oldham* to appear before the said official, or his surrogate or other judge in that behalf competent whatsoever in the cathedral church of *Norwich* in the usual place there on the 7th day of *December* last past, to answer to certain articles, heads or interrogatories, by the office of the said official, at the promotion of *John Houghton*, Esq; and *A. N. Gent.* church-wardens of the parochial church of *St. George of Tombland* in *Norwich* aforesaid, to be objected and administered; and altho' the same *John Oldham*, according to the citation aforesaid, on the day aforesaid so as aforesaid assigned before the said official hath appeared, and being by the said official required to answer to the premisses, desired a copy of the libel or articles of that to which he should answer in the premisses, according to the form of the statute 2 H. 5. c. 3. made in the 2d year of the reign of the Lord *Henry* the Fifth late King of *England* to be delivered to him; yet the said official the statute aforesaid not regarding, but contriving him the said *John Oldham* unjustly and unduly to aggrieve, oppress and fatigue, any copy of the libel or articles of the premisses to the said *John Oldham* hath delayed, and yet doth delay to deliver; and nevertheless the said official him the said *John Oldham* for not answering to the articles aforesaid hath pronounced contumacious, and on pretence of that contumacy sentence of excommunication against him the said *John Oldham* hath unjustly decreed, to the great damage and expence of the said *John Oldham*, and in contempt of the Lord the now King, and against the form of the statute aforesaid: And this the said *John Oldham* is ready to verify: Wherefore the same *John Oldham* the aid and assistance of the court of the Lord the King here most humbly imploring, prays remedy and the writ of the said Lord the King of prohibition to the said judge spiritual, or other judge in this behalf competent whatsoever, to prohibit him that he may not proceed farther in the plea before him in any wise touching the premisses, until a true copy of the libel or articles in the same court christian against him the said *John Oldham* exhibited be delivered to the same *John*, and that the same judge spiritual, if he hath pronounced any sentence against him the said *John* for his contumacy in not answering to the articles aforesaid, may discharge the same, and him the said *John* from that sentence wholly absolve: And it is granted him.

Prohibition
prayed till a
copy deliver-
ed.

England, to wit. **B**E it remember'd, that on *Monday* in three weeks of the Holy Trinity Suggestion by the husband now here to understand and be informed, that whereas according to the law of the land and the custom of this kingdom of *England* from time immemorial within the same kingdom had and used no married woman can make her will, nor by any will give or dispose to any person or persons whomsoever in any manner any part of her estate without the express consent of her husband at the time of the making or consummation of the same, or the allowance and ratification thereof by the husband after the making of such will; and altho' the exposition and discussing of the laws and customs of this kingdom of *England* to the said Lord the now King belong and ought in his temporal courts to be expounded, and ought not in any wise to be tried and determined or discussed in the ecclesiastical court, or by the ecclesiastical laws or censures, nor for time immemorial have been accustomed: Nevertheless *Rachel Corbett*, spinster, and *John Bowes*, Bart. contriving him the said *Charles* against the law and custom of this kingdom of *England* unduly to aggrieve, oppress and fatigue, and also the said Lord the King and his royal crown to disinheret, and the cognisance of the plea, which to the said Lord the now King, and not to the court christian, belongs, to another proof in the court christian to draw, the said *Charles* in the prerogative court of the archbishop of *Canterbury*, before *Richard Lloyd*, Knt. surrogate to *Lewellin Jenkins*, Knt. keeper, or master or commissary of the prerogative court of *Canterbury*, or other judge in that behalf competent, have drawn in plea, by alledging, that *Sarah Viscountess Corbett* of *Linsade* in the county of *Bucks* deceased, made a pretended last will and testament in writing, and her the said *Rachel* made her will.

The grie-
vance.
Allegation
that the wife
made her will.

The husband disagreed to it, and prayed administration.

Prohibition prayed.

constituted executrix thereof, when in truth and in fact the said Viscountess at the time of the making of the pretended will aforesaid was a married woman and the wife of him the said *Charles*; and because they the said *Rachel* and *John* have not alledged, nor in any wise made pretence in their allegation aforesaid, that he the said *Charles* gave his consent at the time of the making of the will aforesaid, or was in any manner privy thereto, or at any time after in any manner ratified or confirmed the same, but on the contrary, he the same *Charles*, always before the making of the said pretended will, and always from thence hitherto after, disagreed to and dissented from the same, and by the answer of him the said *Charles* to the said allegation of the said *Rachel* and *John* in the said court christian exhibited judicially protested against the said pretended will, and the same wholly disallowed and disapproved, and by his answer pray'd that the said Viscountess his wife might be declared to have died intestate, and that letters of administration of all the goods and chattels, rights and credits of the said Viscountess might be committed to him the said *Charles* the husband of the said Viscountess; and altho' the pretended will of any married woman is of no force or effect in law without the assent of the husband obtained; and also altho' the said Viscountess at the time of the making of her pretended will aforesaid was married to the said *Charles* her husband, and the same *Charles* to such pretended will never gave his assent, whereby the same pretended will ought not to be approved in the ecclesiastical court; and also altho' the same *Charles* in the said court christian all and singular the premises in his discharge against the probate of the will aforesaid hath alledged and pleaded, and offered to prove them by inevitable truth and testimony: Nevertheless the same judge spiritual hath altogether refused to admit that plea, proof and allegation, and proposes to proceed to prove the said pretended will of the said Viscountess; and the said *Rachel* and *John*, to cause him the said *Charles* by the definitive sentence of the said court to be condemned, with all their power endeavour and daily contrive, in contempt of the said Lord the King, to the great and manifest damage, prejudice and impoverishment of the said *Charles*, and against the law of this kingdom of *England*: Wherefore the said *Charles* the aid and assistance of the court of the said Lord the King now here most humbly imploring prays remedy, and the writ of the said Lord the King of prohibition to the said judge spiritual, or other judge in this behalf competent whatsoever, to be directed, to prohibit him that he do not farther hold plea before him in any manner touching the premises: And to him it is granted, &c.

Saunders against Hanslope.

H. 34 & 35 C. 2.

Suggestion on a suit that the party had not received the sacrament in his parish church.

That he received the sacrament at the Abby church.

England, to wit. **B**E it remember'd, that, &c. comes *John Saunders* of the city of *B.* mercer, within the diocese of *B.* by *T. E.* his attorney, and gives the court here to understand and be informed, that he the said *J. S.* from the time of his birth hitherto was and is a protestant, openly professing the faith and religion of the church of *England*, and behaving himself conformable to the rites and ceremonies in the church of *England* by the laws of this kingdom of *England* established: Nevertheless one *Henry Jones*, doctor of laws, official principal of the consistory court of the reverend father in Christ *G.* by divine permission bishop of *B.* and also his vicar general in spirituals lawfully constituted, contriving and intending the said *J. S.* unjustly to aggrieve and oppress, hath cited, and caused to be cited, the said *J. S.* to appear in the court christian within the diocese of *B.* aforesaid before him the said *H. J.* and the same *J. S.* on that account in the said court christian on the first day of *December* in the 34th year of the reign of the Lord the now King appeared before the said *H. J.* according to the form and effect of the citation aforesaid, and then and there the said *J. S.* by the said *H. J.* was admonished to frequent his parochial church on *Sundays* and festivals in the time of divine service, there to receive the sacrament of the Lord's supper or holy eucharist in his parochial church of *St. T. Bristol* aforesaid, according to the rites of the church of *England*, at the feast of the Birth of our Lord then next following and now last past, and to appear on *Saturday* 20th day of *J.* in the 34th year abovesaid in the court christian aforesaid to certify of the same; whereupon he the said *J. S.* divine prayers according to the liturgy and practice of the church of *England* on *Sundays* and festivals continually afterwards hitherto, in sundry parochial churches where the same *J. S.* inhabited, has publicly frequented, and behaved himself reverently, and on the said feast of the Birth of our Lord now last past received the sacrament of the Lord's supper, or the sacrament of the eucharist, according to the rites, usage and custom of the church of *England*, in and at the cathedral church in the diocese of *B.* aforesaid, to wit, in the church of the Holy and Undivided Trinity *B.* from the hands of one *F. Hanslope*, clerk, who the same day and place to all there present the sacrament of the Lord's supper, or the

the sacrament of the eucharist aforesaid, administred and gave; and afterwards, to wit, 20th day of *January* aforesaid and now last past, the said *J. S.* in the court christian aforesaid appeared, according to the monition aforesaid, where then and there the said *F. Hanslope* as surrogate of the said *H. Jones* sat judge in a lawful manner constituted, and the said *J. S.* then and there alledged, and for plea offered to the said *F. Hanslope*, that he the said *J. S.* the days, times and places aforesaid had publickly frequented divine prayers according to the liturgy and practice of the church of *England*, and on the Birth of our Lord aforesaid had received the Lord's supper, or the sacrament of the eucharist, in the cathedral church aforesaid, from the hands of him the said *F. H.* and prayed then and there that the said *F. H.* the plea aforesaid would allow, and him the said *J. S.* from the court aforesaid dismiss: Nevertheless he the said *F. H.* not ignorant of the premisses, but contriving and intending against the due form of the law of this kingdom of *England* him the said *J. S.* to aggrieve and oppress, the allegation and plea so as aforesaid offered would not receive and allow, but to admit it hath refused, and yet doth refuse; and the same *F. H.* him the said *J. S.* by the definitive sentence of the said court christian of and upon the premisses, to cause to be condemned with all his might endeavours and contrives, against the laws and customs of this kingdom of *England*, in contempt of the said Lord the now King, and to the great damage of him the said *J. S.* And this, &c. Wherefore the same *J. S.* the aid of the court of the said Lord the King now here humbly imploring prays remedy, and the writ of the said Lord the King of prohibition to the said *G.* by divine permission bishop of *B. H. J.* doctor of laws, &c. *F. Hanslope*, clerk, surrogate of the said *H. J.* and other judge in this behalf competent, and every of them, to be directed, to prohibit them and every of them, that the plea aforesaid the premisses any ways touching, before them, or any of them, they may not farther hold, nor may any of them hold, and if any sentence or sentences of excommunication against him the said *J. S.* by reason of the premisses only they have pronounced, or any of them hath pronounced, then him the said *J. S.* from thence they wholly may absolve without delay, and every of them may absolve: And to him it is granted, &c.

Adams and Oakes.

H. 7 W. 3.

England, to wit. **B**E it remember'd, that on *Wednesday* next after the Oſtave of St. *Hilary* in this same term before the Lord the King at *Westminster* comes a suggestion on *John Adams* of the parish of *Westromwith* in the county of *Stafford*, yeoman, in his proper person, and gives the court of the said Lord the King now here to understand and be informed, that all and singular pleas and affairs of and concerning all prescriptions and customs whatever within this kingdom, and the cognisance of those pleas to the said Lord the King and his royal crown especially belong and appertain, and ought and always hitherto have been accustomed to be tried and discussed at the common law in the courts of the said Lord the King of record, and not in the ecclesiastical court: And whereas within the parish of *Hansworth* in the county of *Stafford* aforesaid, and the bounds, limits and tithable places of the same parish, there is and for time out of mind hath been a custom and manner of tithing, to wit, that all and singular the proprietors, or their farmers or occupiers of any lands, meadow or pasture within the parish of *Hansworth* aforesaid have paid, and have been used and accustomed to pay yearly to the rector of the rectory of the parochial church of *Hansworth* aforesaid for the time being, or his farmer thereof, for every milch-cow within the parish of *Hansworth* aforesaid depastured, had and kept, one penny, and for every calf number seven from such cows within the parish of *Hansworth* aforesaid had and rear'd, one half penny, in lieu and full satisfaction and discharge of all tithes of herbage of such cows, and of milk, butter, cheese, and of such calves from the cows aforesaid however happening, growing, renewing or arising; which said several sums of money so payable and paid, all and singular the rectors of the church aforesaid for the time being, or their farmers thereof, for all the time aforesaid yearly of such occupiers, in full satisfaction and discharge of all and singular the tithes aforesaid happening, renewing and arising, have accepted, received and had: And whereas the same *John* has, holds and occupies, and for five years now last past hath had, held and occupied certain parcels of land and meadow, called the *Little Park Meadows* within the parish of *Hansworth* aforesaid, and for that time the said *John* hath kept and depastured in and upon the same parcels of land and meadow within that parish two milch-cows, from which said two cows he hath had and reared yearly within the parish aforesaid two calves: Nevertheless one *Thomas Oakes*, being rector of the rectory and parish church of *Hansworth* aforesaid, not ignorant of the premisses, him the said *J. Adams* against the due form

form of the law of this kingdom of *England*, and against the custom aforesaid, to aggrieve and oppress, and the cognisance of the plea, which to the court of the said Lord the King now here belongs, to another proof in the court christian to draw, him the said *John* in the court christian before the venerable and excellent man *R. Raines*, Knt. doctor of laws, official principal of the consistory court of the bishop of *Litchfield*, &c. or his surrogate, hath drawn in plea, craftily and subtilly libelling against the said *John* in the same court christian, among other things, that by an ancient and laudable custom within the parish of *Hansworth* aforesaid, and the bounds, &c. used, approved and obtained, every foreigner living out of the parish of *Hansworth* aforesaid having land, &c. lying and being within the parish of *Hansworth* aforesaid, and the depasturing the said land, &c. with beast or sheep to the rector of the rectory of the parochial church of *Hansworth* aforesaid for the time being, or his farmer or collector of the tithes, according to the true annual value or rent of the said land, &c. lying and being within the parish of *Hansworth* aforesaid, and by him depastured, to wit, the sum of 2 s. of lawful money of *England* for every 20 s. that the said land was yearly worth, for and in consideration of the tithes of the herbage, &c. of the said land, &c. and of the beast and sheep therein, and on the same depastured, yearly and every year hath been accustomed, ought and was bound to pay, and that in the months of *March*, &c. in the years 1692 and 1693, and in the months of *March*, &c. in the year 1694, or of either of them, &c. the said *John Adams* was a foreigner, and lived out of the parish of *Hansworth* aforesaid, and within the parish of *Westromwith* aforesaid, and held and occupied land, &c. lying and being within the parish of *Hansworth* aforesaid, and the bounds, &c. of the yearly value or rent of 3 l. which with beast and sheep for all that time, or a great part of the same, he depastured and eat up, &c. and him the said *John* in the court christian before the said judge spiritual on the account aforesaid to appear, and to the said *Thomas Oakes* to answer of and upon the premises, hath wrongfully compelled and obliged, when in truth he the said *John* no beast or sheep within the parish of *Hansworth* aforesaid of, out or upon the said parcels of land and meadow, called the *Little Park Meadows* aforesaid, or in any other place, in the months in the years aforesaid ever depastured, had or kept, except the said two milch-cows before-mentioned, and two calves from the said two cows yearly during the time aforesaid had and brought up; and altho' the said *John Adams* always at *Hansworth* aforesaid was ready and offered to pay to the said *T. Oakes* yearly and in every of the years aforesaid two pence for the said two cows yearly within the parish aforesaid depastured, and one penny for the two calves aforesaid yearly had and reared, according to the custom and manner of tithing aforesaid; and altho' the same *John* all and singular the premises in this suggestion contained in his discharge in the court christian aforesaid hath pleaded, and by inevitable testimony hath offered to prove them: Nevertheless the same judge spiritual the plea, allegation and proof aforesaid, to admit or receive hath wholly refused, and to cause him the said *John Adams* to pay the money aforesaid in the libel aforesaid specified with all his might endeavours and daily contrives, in contempt of the said Lord the now King, and to the manifest damage, prejudice and grievance of him the said *John*, and against the due form of the law of this kingdom of *England*, and the prescription and custom aforesaid: And this he is ready to verify: Wherefore the said *John* the aid and assistance of the court of the said Lord the King now here most humbly imploring prays remedy, and the writ of the said Lord the King of prohibition to the said judge spiritual, or other judge in this behalf competent whatever, to be directed, to prohibit him that he may not farther hold plea before him, the premises aforesaid in any wise touching or concerning, nor attempt, nor presume to attempt any thing farther therein; and if he hath pronounced any sentence of excommunication against him the said *John* by reason of the premises, then he may without delay revoke it, or cause it to be revoked, and intirely absolve him the said *John* at his peril: And it is granted him, &c.

Consultation
prayed for
not proving
the suggestion
in six months
according to
2 & 3 E. 6.
c. 13.

Afterwards, to wit, on *Wednesday* next after the Octave of the Purification of the Blessed *Mary* comes here into court the said *Thomas Oakes* by *John Lilly* his attorney, and prays the writ of the Lord the King of consultation of and upon the premises to the venerable and excellent man *Richard Raines*, Knt. doctor of laws, official principal of the consistory court of the bishop of *Litchfield*, or his surrogate, or other judge in this behalf competent, to be directed, because the said *John Adams* within six months next after the granting of the prohibition aforesaid his suggestion aforesaid with sufficient testimony, according to the form of the statute thereof made and provided, hath not proved; whereupon, because it manifestly appears to the court of the said Lord the King now here, that the said *John Adams* within six months after the said *Wednesday* next after three weeks of the Holy *Trinity* last past his suggestion by sufficient witnesses, according to the statute aforesaid, hath not proved, the said spiritual judge is commanded by writ of the said Lord the King of consultation, that in the cause aforesaid between the parties aforesaid, with all the speed he

he can, according to the law ecclesiastical, he may proceed, the said writ of the said Lord the King of prohibition to him in form aforesaid before to the contrary directed in any wife notwithstanding; and farther, according to the form of the statute aforesaid, the court of the said Lord the King now here adjudge to the said *Thomas Oakes* for his costs and charges which he hath sustained by reason of the prosecution of the said writ of the Lord the King of prohibition, besides his damages, 51 s. and for his damages 10 s. which said costs, charges and damages being doubled according to the form of the said statute, amount in the whole to 6 l. 2 s. and the said *Thomas Oakes* may have thereof execution, &c.

Foster and another against Hall.

Hill. 7 W. 3. Roll 128.

Stafford, to wit. **B**E it remember'd, that on *Friday* next after 15 days of *St. Martin* in Declaration Michaelmas term last past before the Lord the King at *Westminster* on a *modus* to came *William Foster* the younger and *William Hawkisford*, who as well for the Lord the King as for themselves prosecute by *Nathaniel Hickman* their attorney, and produced here in the court then there their certain bill against *Thomas Hall*, clerk, vicar of the vicarage of the parochial church of *Busbury* in the county aforesaid, in the custody of the marshal, &c. in a plea, why he prosecuted a plea against them the said *W. Foster* and *W. Hawkisford* in the court christian after the Royal prohibition to him first to the contrary thereof directed and delivered; and there are pledges to prosecute, to wit, *John Doe* and *Richard Roe*; which said bill follows in these words, to wit, *Stafford*, to wit, *William Foster* the younger and *William Hawkisford*, who as well for the Lord the King as for themselves prosecute, complain of *Thomas Hall*, clerk, vicar of the vicarage of the parochial church of *Busbury* in the county aforesaid, being in the custody of the marshal of the *Marshalsea* of the Lord the King before the King himself in a plea, why he prosecuted a plea against them the said *W. Foster* and *W. Hawkisford* in the court christian, against the Royal prohibition to them first to the contrary thereof directed and delivered, for this, to wit, that whereas all and singular pleas of and concerning prescriptions and customs within this kingdom of *England*, and the cognisance of the same pleas, to the said Lord the King and his Royal crown especially belong and appertain, and at the common law in the courts of the Lord the King of record, and not in the ecclesiastical court, ought to be tried and discussed, and always hitherto have been accustomed: And whereas all and singular the occupiers, tenants and farmers of one messuage, one garden, 100 acres of land, 40 acres of meadow, and 200 acres of pasture with the appurtenances, commonly called *Wobaston Farm* in the parish of *Busbury* in the said county of *Stafford* for the time being, have from time immemorial been accustomed to pay to the vicar of the vicarage of the parochial church aforesaid for the time being, or his farmer of that vicarage, yearly the annual sum of 15 s. of lawful money of *England*, in full contentation, payment and satisfaction of all and singular the tithes whatsoever of wool, lambs, pigs, geese, milk, calves, apples, pears and plums, of and from the said messuage and tenements with the appurtenances, called *Wobaston Farm*, howsoever happening, renewing or arising, as also of all *Easter-Offerings* for the occupiers of the messuage aforesaid, and for the same messuage and garden, and also of all other small tithes whatsoever to the vicar of the vicarage aforesaid for the time being of and from the tenements aforesaid yearly payable: And whereas also the said *W. Foster*, on the 26th day of *March* in the fifth year of the reign of the Lord the now King and of the Lady *Mary* the late Queen of *England*, was and yet is occupier and farmer of the said messuage, garden, 88 acres of land, 40 acres of meadow, and 200 acres of pasture with the appurtenances, parcel of the said messuage and tenements called *Wobaston Farm*: And whereas also the said *W. Hawkisford* on the same 26th day of *March* in the fifth year aforesaid was and yet is occupier and farmer of 12 acres of land, the other parcel of the said messuage and tenements called *Wobaston Farm*: Nevertheless the said *Thomas Hall*, clerk, vicar of the vicarage of the parochial church aforesaid, not ignorant of the premises, but contriving and intending them the said *William Foster* and *William Hawkisford*, against the due form of the law of this kingdom of *England*, and against the prescription and manner of tithing aforesaid, unduly to aggrieve and greatly to oppress and fatigue, and also the said now King and his Royal crown to dishonour, and the cognisance of the plea, which to him the said now King and his Royal crown particularly belongs and appertains, to another proof in the court christian to draw them the said *William Foster* and *William Hawkisford* in the court christian before the venerable and excellent man Sir *Richard Raines*, Knt. doctor of laws, official principal of the consistory court

The libel.

of the bishop of *Litchfield* lawfully constituted, hath drawn in plea, craftily and subtilly libelling against him the said *William Foster*, that he the said *William Foster* in the months of *March*, &c. in the years of the Lord 1693 and 1694, or of them, &c. had, &c. 10 bushels or measures of apples, and 10 bushels or measures of pears, within the parish of *Busbury* aforesaid, and the bounds, &c. growing, and 60 ewe sheep, and 70 barren sheep and wethers, one sow, and likewise two geese, in the same parish of *Busbury* aforesaid in the months and years aforesaid, or of them, &c. and had from the same ewe sheep, barren sheep and wethers 130 pound of wool there yearly and every of the years aforesaid shorn, and of and from the same 60 ewe sheep 60 lambs there yearly and in every of the said years bred, and of and from the same sow 10 pigs there yearly and in every of the years aforesaid pigged, and of and from the same geese 20 goslings there yearly and in every of the said years hatched, and that within the parish of *Busbury* aforesaid, and the bounds, &c. there was a certain laudable and antient prescribed custom, that every master of a family any mansion-house and garden within the same parish having, &c. and a family there keeping and maintaining, and divine service in the parochial church of *Busbury* aforesaid hearing, and the sacraments and sacramentals there receiving, or so to hear and receive being bound, to the vicar of the vicarage of the parochial church of *Busbury* aforesaid, or to his farmer for the time being, in the name of certain rights or ecclesiastical emoluments within the same parish, commonly called *Easter-Offerings* or house-duties, hath yearly paid, or ought to pay, 3*d.* of lawful money of *England* for himself, 1*d.* for his house, commonly called a smoak-penny, 1*d.* for his garden, commonly called a garden-penny, 1*d.* for every milch-cow, 1*d.* and $\frac{1}{2}$ *d.* for every calf there brought forth, for and in lieu of the tithes of every such cow and calf yearly at the feast of *Easter*; and that the said *William Foster* in the months and years aforesaid was a master of a family within the parish of *Busbury* aforesaid, and a family there yearly kept and maintained, and had a mansion-house, garden, and six milch-cows within the same parish yearly brought up and with young; and that he the said *William Foster* for all the time aforesaid divine service in the parochial church of *Busbury* aforesaid did hear, and the sacraments and sacramentals did receive, or so to hear, &c. that plea in the said court christian after the Royal prohibition to him to the contrary thereof directed and delivered, to wit, on the 22d day of *November* in the 7th year aforesaid at *Litchfield Close* in the county aforesaid, hath farther prosecuted, the said writ of the said Lord the King of prohibition to him to the contrary thereof directed and delivered in any wise notwithstanding, in contempt of the said Lord the now King, and to the great damage of them the said *William Foster* and *William Hawkisford*, and against the prohibition aforesaid; whereby they the said *William Foster* and *William Hawkisford*, who as well, &c. say that they are prejudiced, and have damage to the value of 100*l.* And therefore as well for the said Lord the King as for themselves they produce the suit, &c.

Imparance.

And now on this day, to wit, *Thursday* next after the Octave of *St. Hillary* in this same term, until which day the said *Thomas* had leave to imparl to the bill aforesaid, and then to answer, &c. before the Lord the King at *Westminster*, come as well the said *William Foster* and *William Hawkisford* by their attorney aforesaid, as the said *Thomas Hall* by *John Lilly* his attorney, and the said *Thomas Hall* defends the force and injury when, &c. and all contempt, &c. and whatsoever, &c. and says, that he hath not prosecuted the plea in the said court christian against the Royal prohibition to him to the contrary thereof before directed and delivered, as the said *William Foster* and *William Hawkisford*, who as well, &c. above by their declaration aforesaid suppose: And of this he puts himself on the country: And the said *W. Foster* and *W. Hawkisford* thereof likewise, &c. But to have the writ of the said Lord the King of consultation in this behalf, the said *Thomas* says, that he the said *Thomas* for the time of the subtraction of the tithes in the declaration aforesaid above specified was and yet is vicar of the parochial church of *Busbury* aforesaid in the county aforesaid; and the same *Thomas* farther says, that all and singular the vicars of that church for the time being have had and received, and for time immemorial have been accustomed to have and receive of all the occupiers, tenants and farmers of the said messuage and tenements, called *Wobaston Farm* in the parish of *Busbury* aforesaid in the declaration aforesaid above mentioned, all the tithes of whatever wool, lambs, pigs, geese, milk, calves, flax, apples, pears and plums, and also all *Easter-Offerings* for the occupiers of the messuage aforesaid, and for the same messuage and garden aforesaid, and also all other small tithes whatsoever happening, renewing or arising in their proper kind yearly, or every occupier, tenant and farmer of the said messuage and tenements called *Wobaston Farm* aforesaid, with the same vicar or his farmer thereof for the time being for the same tithes year-

That the vicar always received the tithe in kind.

ly have compounded; and because the said *William Foster* and *William Hawkisford*, being inhabitants within the parish of *Busbury* aforeaid in the county aforeaid, the said tithes in the months and years in the declaration aforeaid mentioned within the parish of *Busbury* aforeaid happening, renewing, growing and arising to the said *Thomas Hall*, vicar of the church aforeaid, in the right of that church in the same years belonging, had from the said *Thomas Hall* subtracted, the said *Thomas Hall* them the said *William Foster* and *William Hawkisford* in the court christian, before the said judge spiritual, of and for the substration of those tithes in the said months and years in the declaration aforeaid specified, before the prohibition of the said Lord the King to him to the contrary directed and delivered, did draw in plea, as he lawfully might; without this, that all and singular the occupiers, tenants and farmers of the said messuage, garden, 100 acres of land, 40 acres of meadow, and 200 acres of pasture with the appurtenances, called *Wobaston Farm* in the parish of *Busbury* aforeaid in the county aforeaid, from time immemorial have paid, and been accustomed to pay, to the vicar of the parochial church of *Busbury* aforeaid for the time being, or his farmer of that vicarage yearly, the annual sum of 15*s.* of lawful money of *England*, in full contentation, satisfaction and payment of all and singular the tithes whatever of wool, lambs, pigs, geese, milk and calves, flax, pears, apples and plums, of and from the said messuage and tenements aforeaid with the appurtenances, called *Wobaston Farm* aforeaid, howsoever happening, renewing or arising, as also of all and singular *Easter-Offerings* for the occupier of the messuage aforeaid, and the said messuage and garden aforeaid, and also of all other small tithes whatsoever to the vicar of the vicarage aforeaid for the time being of and from the tenements aforeaid yearly payable, as the said *William Foster* and *William Hawkisford* by their declaration aforeaid above suppose: And this he is ready to verify: Wherefore he prays judgment, and the writ of the said Lord the King of consultation to him in this behalf to be granted, &c.

And because the plaintiffs had subtracted the tithes, he sued them in the spiritual court.

Traverse of the modus.

And the said *William Foster* and *William Hawkisford*, who as well, &c. say, that by any thing by the said *Thomas Hall* above in pleading alledged, the writ of the Lord the King of consultation to the said *Thomas Hall* ought not to be granted, because, as before they say, that all and singular the occupiers, tenants and farmers of the said messuage, garden, 100 acres of land, 40 acres of meadow, and 200 acres of pasture with the appurtenances, called *Wobaston Farm* in the parish of *Busbury* aforeaid in the county aforeaid, from time immemorial have paid, and been accustomed to pay, to the vicar of the parochial church of *Busbury* aforeaid for the time being, or his farmer of that vicarage yearly, the annual sum of 15*s.* of lawful money of *England*, in full contentation, satisfaction and payment of all and singular tithes whatsoever of wool, lambs, pigs, geese, milk, calves, flax, apples, pears and plums, of and from the said messuage and tenements aforeaid with the appurtenances, called *Wobaston Farm* aforeaid, howsoever happening, renewing or arising, and also of all *Easter-Offerings* for the occupiers of the messuage aforeaid, and for the said messuage and garden aforeaid, and also of all other small tithes whatsoever to the vicar of the vicarage aforeaid for the time being, of and from the tenements aforeaid yearly payable, in manner and form as the said *William Foster* and *William Hawkisford* by their declaration aforeaid above suppose: And this they pray may be inquired of by the country: And the said *Thomas* likewise, &c. Therefore as well to try the issue aforeaid, as the said other issue between the parties aforeaid above joined, let a jury thereon come before the Lord the King at *Westminster* on *Wednesday* next after the Octave of the Purification of the Blessed *Mary*; and who neither, &c. to recognize, &c. because as well, &c. The same day is given to the parties aforeaid there, &c.

Issue on the traverse.

Stafford, to wit. **T**HE jury between *William Foster* the younger and *William Hawkisford*, who as well for the Lord the King as for themselves prosecute by their attorney, plaintiffs, and *Thomas Hall*, clerk, vicar of the vicarage of the parochial church of *Busbury* aforeaid in the county aforeaid, defendant, in a plea, why he prosecuted a plea against them the said *William Foster* and *William Hawkisford* in the court christian after the Royal prohibition to him first to the contrary thereof directed and delivered, is put in respite until *Wednesday* next after 15 days of *Easter*, unless the justices of the said Lord the King, assigned to take assises in the county aforeaid, shall first come on *Tuesday* the 24th day of *March* at *Stafford* in the county aforeaid, by the form of the statute, for want of jurors, &c. and let the sheriff have the bodies, &c. The same day is given to the parties aforeaid there, &c. And be it known, that the writ of the Lord the King thereof on the 12th day of *February* in this same term before the Lord the King at *Westminster* is delivered of record to the under-sheriff of the county aforeaid, in form of law to be executed at his peril, &c.

The jurata.

Afterwards the day and place within contained before *Samuel Eyre*, Knt. one of the justices of the said Lord the King, assigned to hold pleas before the King himself, and *Thomas Bretton*, Esquire, to the said *Samuel Eyre* and *Thomas Rokely*,

The postea.

Rokeby, Knt. another justice of the said Lord the King, assigned to hold pleas before the King himself, justices of the said Lord the King, assigned to take assises in the county of *Stafford*, by the form of the statute, &c. this time associated, the presence of the said *Thomas Rokeby* being not expected, by virtue of the writ of the said Lord the King of *Si non omnes*, &c. come as well the within named *William Foster* and *William Hawkisford*, who as well for the Lord the King as for themselves prosecute, as the within written *Thomas Hall* by their attornies within contained; and the jurors of the jury, whereof mention is within made, being called, some of them, to wit, *Richard Wilkes*, *Thomas Fieldhouse*, *T. P.* and *J. P.* come, and on that jury are sworn; and because the rest of the jurors of that jury have not appeared, therefore others from the by-standers by the sheriff of the county aforesaid hereto elected, at the request of the said *William Foster* and *William Hawkisford*, and by the command of the justices aforesaid, are added anew, whose names are put to the panel within written, according to the form of the statute in such case made and provided; which said jurors so added anew, to wit, *J. Palmer*, *J. C. T. P. T. C. T. H. L. D. J. K.* and *T. C.* being called likewise come, who to say the truth of the within contained, together with the other jurors aforesaid first impanelled and sworn, being elected, tried and sworn, say upon their oath, that all and singular the occupiers, tenants and farmers of the within written messuage, garden, 100 acres of land, 40 acres of meadow, and 200 acres of pasture with the appurtenances, called *Wobaston Farm* in the parish of *Busbbury* within written in the county aforesaid, for time immemorial have not paid, or been accustomed to pay, to the vicar of the vicarage of the parochial church of *Busbbury* aforesaid for the time being, or his farmer of that vicarage yearly, the annual sum of 15 s. of lawful money of *England*, in full contentation, satisfaction and payment of all and singular tithes whatever of wool, lambs, pigs, geese, milk, calves, flax, apples, pears and plums, of and from the said messuage and tenements aforesaid with the appurtenances, called *Wobaston Farm* aforesaid, howsoever happening, renewing or arising, and likewise of all *Easter-Offerings* for the occupiers of the messuage aforesaid and garden aforesaid, and also of all small tithes whatever to the vicar of the vicarage aforesaid for the time being, of and from the tenements aforesaid yearly payable, as the said *Thomas* within for himself in pleading hath alledged: Therefore, &c.

Judgment for the defendant.

Tales.

35 H. 8. c. 6.
3 G. 2. c. 25.
7 & 8 W. 3.
c. 32. §. 3.

Verdict.

Collet, Knt. against Lloyd.

Declaration on a prohibition to the court of honour concerning the assuming a coat of arms. Farell. 125.

Middlesex, to wit. **B**E it remember'd, that otherwise, to wit, in *Trinity* term last past before the Lady the Queen at *Westminster* came *James Collet* of *London*, Knt. who as well for the Lady the Queen as for himself prosecutes by *S. Mason* his attorney, and produced here in the court of the said Lady the Queen then there his certain bill against *N. Lloyd*, doctor of laws, in the custody of the marshal, &c. in a plea, why he prosecuted before *Henry* Earl of *Bindon*, of the Lord Marshal of *England*, by the Royal approbation, deputy or vicegerent, after the Royal prohibition to him first to the contrary thereof directed and delivered; and there are pledges to prosecute, to wit, *John Doe* and *Richard Roe*; which said bill follows in these words, to wit, *Middlesex*, to wit, *James Collet* of *London*, Knt. who as well for the Lady the Queen as for himself prosecutes, complains of *N. Lloyd*, doctor of laws, being in the custody of the marshal of the *Marshalsea* of the Lady the Queen before the Queen herself in a plea, why he prosecuted before *Henry* Earl of *Bindon*, of the Lord Marshal of *England*, by Royal approbation, deputy or vicegerent, after the Royal prohibition to him first to the contrary thereof directed and delivered, for this, to wit, that whereas by the great charter of the liberties of *England* made and provided in the 9th year of the reign of the Lord *Henry* the Third late King of *England*, predecessor of the Lady the now Queen, to wit, in a Parliament held at *Westminster* in the county of *Middlesex*, it was and is ordained and established, that no freeman should be taken or imprisoned, or disseised of his freehold or liberties, or free customs, or be outlawed or exiled, or any otherwise destroyed, nor would the King pass upon him nor condemn him but by lawful judgment of his peers, or by law of the land, as in the same statute more fully is contained: And whereas also the said *James Collet* is a freeman of *England* in the kingdom of *Britain*, and the free customs of *England* ought to enjoy, and against the same ought not in any wise to be disquieted or molested: And whereas in and by a certain other statute made in a Parliament in the 8th year of the reign of the Lord *Richard* the Second late King of *England*, &c. it was enacted, that all pleas and suits touching the common law should not then after be drawn or held by any means before the constable and marshal of *England*: And whereas also in and by another statute in a Parliament held in the 13th year of the reign of the same late King, and by divers other laws and statutes of *England* it is provided, that to the constable and marshal it pertaineth to have cognisance of contracts touching deeds of arms and war out of the realm, and also of things that touch war within the

9 H. 3. c. 29.

8 R. 2. c. 5.

13 R. 2. c. 2.

the realm, which cannot be determined nor discussed by the common law: And whereas the court having cognisance of contracts touching deeds of arms and war, ought only to be held before the constable and marshal of *England*, and not before the marshal only: And whereas also the court aforesaid by the law of the land ought to be held before the constable and marshal of *England*, and not before the deputy or vicegerent of such deputy of them, or either of them; and whereas also no freeman of *England* by the laws of *England* ought to be attached by his body, or detained in custody until he shall give surety to answer or obey any order or decree in the said court of honour, and the cognisance of all pleas and complaints of and concerning the painting and use of any coats of arms upon chariots, or otherwise, to the préjuice or damage of any subject of *England*, or otherwise, to the common law, and not to any court of honour rightly and justly belongs: Nevertheless one *Nathaniel Lloyd*, doctor of laws, advocate Royal in the court of honour, contriving and intending the said *James* against the laws of the land unjustly to oppress and aggrieve, caused him the said *James* to be cited, to wit, at *Westminster* in the county of *Middlesex* aforesaid, that he should appear before *Henry Earl of Bindon*, of the Lord Marshal of *England*, &c. by Royal approbation, deputy or vicegerent, or before his deputy or surrogate, &c. to answer to certain articles or heads within mentioned concerning his contempt of the jurisdiction or authority of the court of honour aforesaid, and the law of arms, and especially in bearing, usurping, shewing and making arms and coats of arms, as the arms and family coats of arms of him the said *James*, and farther to do and receive what shall be just in that behalf, and hath also thereupon procured a certain decree to attach and detain him the said *James* in custody until he should put in surety in 50 *l.* and in case he should not put in such surety on or before, &c. On which day of the appearance of the said *James* the said *Nathaniel* exhibited, or caused to be exhibited, in the said court of honour, certain articles against the said *James* in these words following, to wit, In the name of God, *Amen*: We *Henry Earl of Bindon*, of the Lord Marshal of *England*, &c. by Royal approbation, deputy or vicegerent, to you *Sir James Collet* of *London*, Knt. the within written articles concerning the contempt as well of our jurisdiction and authority, as of the duty and law of arms, and especially in wearing, usurping, causing to be used and publicly shewing arms, coats of arms and a crest, as your proper family arms, coats of arms and crest, which to you in no manner did belong, nor do belong, and which by the law of arms you could not nor can bear, at the promotion of the venerable man *Nathaniel Lloyd*, doctor of laws, in our court of honour advocate Royal, we object and articulate as follows, to wit,

Imprimis, We object to you and articulate, that of right, and by the law of arms, no subject of this kingdom of *England* of what estate, degree or condition soever he shall be, ought to assume to himself, or bear arms, or coats of arms, or a crest, unless he has them, or ought to have them, by the right of his ancestors, or by the gift of some person having sufficient power for that purpose; and we object jointly and severally, and of every one.

Item, We object and articulate, that you the said *Sir James Collet* never had, nor have any arms, coats of arms, or a crest, to you and your family lawfully belonging, at least the arms, coats of arms and crest within described, to you and your ancestors did never lawfully belong, nor do belong; and we object as above.

Item, We object and articulate, that notwithstanding the premisses, but they being true, you the said *Sir James Collet* well knowing the premisses, in the months of *December*, *January*, *February* and *March*, in the year of the Lord 1706, and also in the months of *March*, *April* and *May*, in the year of the Lord 1707 now current, and of them months every more than one or some the arms, coats of arms and crest, of the form in the shield of arms hereto annexed within described, to wit, sable on a chevron between three hinds passant argent Annuleti of the field, the crest a hind argent passant, as your proper family arms, coats of arms and crest, in fact on your chariot on both sides caused to be painted, and them for the arms, coats of arms and crest to you and your family proper, and to you and your family lawfully belonging, on both sides to be borne and shewn, commanded, at least permitted: In all things nevertheless unjustly and without any right and authority, and in contempt of our jurisdiction and authority, and the duty and law of arms, and to the intolerable injury of the nobility and gentry of this famous kingdom of *England*; we object nevertheless of every other time, &c. and we object as above. *Item*, we object and articulate, that you the said *Sir James Collet* was and are of the city of *London*, and to the jurisdiction of our court of honour subject and liable; and we object as above. *Item*, we object and articulate, that of and upon all and singular the premisses it was and is on the behalf of the said venerable

table man *Nathaniel Lloyd*, doctor of laws, in our said court of honour advocate Royal, to us and our said court of honour said, articulated and querelated; and we object and articulate as above.

Item, We object and articulate, that all and singular the premisses were and are true, publick, notorious, manifest also and famous, and of and concerning the same was and at present is the publick talk and discourse; wherefore proof being made of right in this behalf requisite, the party proponent prays right and justice to him and his party to be done and administered with effect; and you the said Sir *James Collet* in the months and years articulated, or of the same months one or some, the coat of arms and crest, in the shield of arms in these articles painted and described, as your proper family coat of arms and crest in fact on your chariot on both sides to be painted, and by you caused and procured to be usurped, and them for the arms and crest to you and your family proper, and to you and your family belonging on both sides to be born and shewn, to have commanded, at least to have permitted, in contempt of our right, jurisdiction and authority, and the office and law of arms, and to the intolerable injury of the nobility and gentry of this famous kingdom, to be pronounced, decreed and declared; and you Sir *J. Collet*, for such your exceeding rashness in the premisses, according to the course of justice and law of arms to be corrected, and that from the like and from bearing and usurping the said coat of arms and crest for the future you may abstain, to be admonished, constrained and compelled, as also in the expences of this suit and plaint made and to be made to the said venerable man *Nathaniel Lloyd*, doctor of Laws, in our court of honour advocate Royal, to be condemned, and to the effectual payment of the same to be forced and compelled, ought to be pronounced and declared, and further to be done, appointed and decreed, what shall be right and consonant to reason and the law of arms, the several things moreover propounding jointly and severally, and not obliging himself to prove all and singular the premisses, nor to the burden of superfluous proof, but that so far as he shall prove in the premisses he may obtain in the demanded, the benefit of the law of arms in all things always saved, your office Sir the judge most humbly imploring; and altho' the said *James* all and singular the premisses above mentioned before the said Lord Earl of *Bindon* in his defence against any farther proceedings on the articles aforesaid hath pleaded and alledged: Nevertheless the said *Nathaniel* him the said *James*, by colour of the premisses to aggrieve and oppress, a certain definitive sentence of the said Lord Earl of *Bindon*, or his deputy, on the premisses endeavours to procure, in contempt of the said Lady the now Queen, and to the manifest disinheritation of her Royal crown, and against the form and effect of the law and statutes aforesaid, and to the damage and prejudice of the said *James*: * And altho' the said *James Collet* afterwards, to wit, on the day of *June* in the year of the reign of the said Lady the now Queen, at *Westminster* aforesaid, delivered to the said *Nathaniel Lloyd* the writ of the said Lady the Queen of prohibition to the contrary thereof: Nevertheless the said *Nathaniel* hath not ceased from farther prosecuting that plea, but that plea before the said *Henry Earl of Bindon*, or his deputy, after the Royal prohibition to him to the contrary in form aforesaid directed and delivered, to wit, the day and year last aforesaid at *Westminster* aforesaid, hath farther prosecuted the said writ of the said Lady the Queen of prohibition to him to the contrary directed and delivered notwithstanding, in contempt of the said Lady the now Queen, and to the damage of the said *James*, who as well, &c. 100 l.

* Go so far in the writ of consultation.

Impar lance.

And now on this day, to wit, *Wednesday* next after 15 days of *Easter* in this same term, until which day the said *Nathaniel* had leave to imparl to the bill aforesaid, and then to answer, &c. before the Lady the Queen at *Westminster* comes as well the said *James* by his attorney aforesaid, as the said *Nathaniel Lloyd* by *John Shaw* his attorney; and the same *Nathaniel* defends the force and injury when, &c. and all contempt and whatsoever, &c. and says, that he hath not prosecuted the plea aforesaid before the said *Henry Earl of Bindon*, of the Lord Marshal of *England*, &c. by Royal approbation, deputy or vicegerent, after the Royal prohibition to him to the contrary thereof directed and delivered, in manner and form as the said *James Collet*, Knt. above in declaring hath alledged: And of this he puts himself on the country: And the said *James Collet*, Knt. who as well, &c. likewise: And as to the procuring a certain decree to attach and detain him the said *James* in custody until he put in surety in manner and form as by the declaration aforesaid above is supposed, the same *Nathaniel Lloyd* says, that he hath not procured any decree to attach and detain him the said *James* in custody until he put in surety in manner and form as by the declaration aforesaid above is supposed: And of this he puts himself on the country: And the said *James*, who as well, &c. likewise: But to have the writ of the Lady the Queen of consultation in this behalf, the same *Nathaniel Lloyd* says, that the court of honour is an antient court, and from time immemorial hath been held, and hath been accustomed to be held, before the constable of *England*, and the marshal of *England* for the time being, or either of them, or before their deputies or vicegerents, or surrogates, or the deputy or vicegerent, or surrogate of either of them, in which

Plea for a consultation.

which said court of honour the said constable of *England* and the marshal of *England* for the time being, or either of them, their deputies or vicegerents, or surrogates, or the deputy or vicegerent, or surrogate, of either of them, the court aforesaid before them or him being held, have and hath had, and for all the time aforesaid have and hath been accustomed to have, and of right have and hath ought to have the cognisance of pleas and causes in any wife touching or concerning arms and coats of arms arising within the kingdom of *England*, to wit, at *Westminster* aforesaid, and no other court whatsoever within the kingdom of *England* in such pleas or causes hath ever intermeddled, nor the jurisdiction thereof in any wife for all the said time hath had, or hath claimed, or ought to have: And the same *Nathaniel Lloyd* farther says, that the office of advocate Royal in the court of honour aforesaid is Custom. an ancient office, and that in the same court there is and from time immemorial hath been such custom there used and approved, that if any person hath borne, usurped, or caused to be used, any arms or coat of arms as his proper family arms, which to such person did in no manner belong, and which of right and by the law of arms such person could not nor ought to bear, the advocate Royal in the same court for the time being, or any other person who will promote a suit in the same court *ex officio* for the cause aforesaid against such person the arms or coat of arms so bearing, usurping and causing to be used, to procure such person the arms or coat of arms so as aforesaid bearing, usurping or causing to be used, in the same court of honour to be cited to appear there before the constable of *England* and the marshal of *England* for the time being, or either of them, or before their deputies or vicegerents, or surrogates, or the deputy or vicegerent, or surrogate, of either of them, to answer to the articles, heads or interrogatories, at the promotion of him the said advocate Royal, or other person, such suit *ex officio* promoting there to be exhibited against such person the arms and coat of arms so as aforesaid bearing, usurping or causing to be used, touching and concerning such persons contempt in bearing, usurping and causing to be used arms, or a coat of arms, as his proper family arms, which by the law of arms he could not or ought not to bear; and also afterwards such articles, heads or interrogatories, against such person the arms or coat of arms so as aforesaid bearing, usurping or causing to be used, in the same court to cause to be exhibited, and the suit against the same person for the cause aforesaid *ex officio* to promote, for all the time aforesaid hath been accustomed and might; and that in such case the same constable of *England* and the marshal of *England* for the time being, or either of them, or their deputies or vicegerents, or surrogates, or the deputy or vicegerent, or surrogate, of either of them, at the promotion of him the said advocate Royal in the same court or other person the suit as aforesaid there *ex officio* promoting, for all the time aforesaid have and hath been accustomed to send in their or his names or name a certain process in writing of a certain date expressed, to all justices of the peace, sheriffs, bailiffs, constables and officers, and also to all his Majesty's faithful subjects whatsoever in and throughout the whole kingdom of *England*, but especially to the mandatory or marshal of that court directed, whereby it was to them jointly and severally committed, and by firmly injoining commanded, that they should cite, or cause to be cited peremptorily, such person so as aforesaid arms, or a coat of arms, as his proper family arms bearing, usurping or causing to be used, that he should appear before the same constable of *England* and marshal of *England*, or either of them, or before their deputies or vicegerents, or surrogates, or the deputy, vicegerent or surrogate, of either of them, or other judge in that behalf competent whatever, in a certain place judicial, and at a certain day between the hours prefixed then next following, to answer to articles, heads or interrogatories concerning such his or their contempt of the jurisdiction of the constable of *England* and the marshal of *England* for the time being, or either of them, and of the office and law of arms, in bearing, usurping, shewing and causing to be used arms, and coats of arms, as their proper family arms, which to such person or persons did in no manner belong, and which of right and by the law of arms such person could not nor ought to bear, and farther to do and receive what shall be right in that behalf, at the promotion of such advocate Royal, or other person that suit in the same court *ex officio* promoting, and what they should do in the premises, to the same constable of *England* and marshal of *England* for the time being, or either of them, or to their deputies or vicegerents, or surrogates, or to the deputy or vicegerent, or surrogate, of either of them, or to other judge in that behalf competent, they should duly certify, together with that process; and by virtue of such process such officers have caused to be cited such defendants in such process named to appear at such place and time in such process expressed, according to the command of that process: And the same *N. Lloyd* farther says, that *Charles* the Second, late King of *England*, by his letters patent sealed under the great seal of *England*, bearing date at *Westminster* 19th day of *October* in the 24th year of his reign, gave and granted to *Henry* then Lord *Howard*, Baron *Howard* of *Castle-rising*, and afterwards Duke of *Norfolk*, the office of Marshal of *England*, with all dignities, jurisdictions, rights and advantages whatsoever to the same office belonging and appertaining; To have and to hold the same office with the appurtenances to the said *Henry* then



then Lord *Howard*, Baron *Howard of Castlerising*, and afterwards Duke of *Norfolk*, and to the heirs male of his body lawfully begotten, to be executed by himself or his sufficient deputies; by virtue of which said letters patent the said *Henry* then Lord *Howard*, Baron *Howard of Castlerising*, and afterwards Duke of *Norfolk*, was seised of and in the office aforesaid with the appurtenances, as of fee-tail to him and his heirs male of his body lawfully begotten; and so being seised afterwards, to wit, on the 11th day of *January* in the year of the Lord 1683 at *Westminster* aforesaid died, whereby the office aforesaid with the appurtenances then and there descended to *Henry* late Duke of *Norfolk*, as son and heir male of the same *Henry* Lord *Howard*, Baron *Howard of Castlerising*, and afterwards Duke of *Norfolk*, whereby the same *Henry* the son, Duke of *Norfolk*, was seised of and in the office aforesaid with the appurtenances, as of fee-tail; and so being thereof seised afterwards, and after the statute hereafter mentioned made, and likewise after the first day of *Easter* term, which was in the year of the Lord and above the space of 12 months and more the deputation hereafter mentioned made, to wit, 2d day of *April* in the year of the Lord 1701, at *Westminster* aforesaid died without issue of his body lawfully begotten; after whose death the office aforesaid with the appurtenances descended to *Thomas* now Duke of *Norfolk*, as heir male of the body of the said *Henry* Lord *Howard*, Baron *Howard of Castlerising*, and afterwards Duke of *Norfolk*, lawfully begotten, to wit, as son and heir male of the body of *Thomas Howard*, Esq; deceased, commonly called the Honourable *Thomas Howard of Workshop*, second son of the said *Henry* Lord *Howard*, Baron *Howard of Castlerising*, afterwards Duke of *Norfolk*; by virtue whereof the said *Thomas* now Duke of *Norfolk* was seised and yet is seised of the office aforesaid with the appurtenances in fee-tail: And the same *N. Lloyd* farther says, that the same *Thomas* Duke of *Norfolk* being so seised of the office aforesaid, for three months next after the time that he the same *Thomas* Duke of *Norfolk* of the office aforesaid of Marshal of *England* so as aforesaid was seised, and more, intirely neglected to receive the sacrament of the Lord's supper, according to the usage of the church of *England*, according to the form of the statute made in the Parliament of the Lord *Charles* the Second late King of *England*, held at *Westminster* in the county of *Middlesex* in the 25th year of his reign, intituled, *An act for preventing dangers which may happen from popish recusants*, and the sacrament of the Lord's supper aforesaid, according to the usage aforesaid, within three months next after the death of the said *Henry* Duke of *Norfolk*, the son, or within three months next after the time that he the same *Thomas* now Duke of *Norfolk* of the office aforesaid of Marshal of *England* so as aforesaid was seised, or at any time hitherto, hath not received; whereby the same *Thomas* now Duke of *Norfolk*, by virtue of the statute aforesaid, became incapable to execute that office: And the said *Nathaniel Lloyd*, by leave of the court here to him first granted, according to the form of the statute in such case lately made and provided, to plead several matters farther says, that by the said statute last mentioned it is enacted and provided, that neither that act nor any thing therein contained should extend, be adjudged or interpreted, to take away or make void the grant of any office or offices of inheritance, or any fee, salary or reward for executing such office or offices, or thereto any way belonging, granted by the said late King, or any his predecessors to, or enjoyed, or which then after should be enjoyed, by any person or persons who should refuse or neglect to take the said oaths, or either of them, or to receive the sacrament, or to subscribe the declaration mentioned in that act in manner therein expressed: Nevertheless so as such person or persons having or enjoying any such office or offices of inheritance did or should substitute and appoint his or their sufficient deputy or deputies (which such officer or officers respectively were thereby impowered from time to time to make or change, any former law or usage to the contrary notwithstanding) to exercise the said office or offices, until such time as the person or persons having such office or offices should voluntarily in the court of Chancery before the Lord Chancellor or Lord Keeper for the time being, or in the court of King's Bench, take the said oaths, and receive the sacrament according to law, and subscribe the said declaration; and so as all and every the deputy and deputies so as aforesaid to be appointed take the said oaths, receive the sacrament, and subscribe the said declaration from time to time, as they should happen to be so appointed, in manner as by that act such officers whose deputies they be are appointed to do, and so as such deputies be from time to time approved of by the King's Majesty under his privy signet, as by that act, among other things, is more fully manifest and appears: And by reason of the premises, the same *Thomas* Duke of *Norfolk* afterwards, to wit, 27th day of *February* in the year of the Lord 1705, at *Westminster* aforesaid in the county aforesaid, then as aforesaid being seised of the office aforesaid, the same office being an office of inheritance, by his deed in writing sealed with his seal, bearing date the same day and year,

year, according to the form, and by virtue of the statute last mentioned, substituted and appointed the said *Henry Earl of Bindon*, by the name of *Henry Lord Walden*, his sufficient deputy to execute the said office of Marshal of *England*, with all jurisdictions, rights, privileges and appurtenances thereto belonging and appertaining; which said *Henry Earl of Bindon* afterwards, to wit, 10th day of *November 1706*, being *Sunday*, at *Westminster* aforesaid, according to the form of the statute in that case made and provided, received the sacrament of the Lord's supper in the parish church of *St. Margaret Westminster*, being a publick church, immediately after divine service and sermon; and also afterwards, to wit, 20th day of *November 1706* aforesaid, according to the form of the statute aforesaid, and several other statutes in such case made and provided, in the court of Chancery of the Lady the Queen, before *W. Cooper*, Esq; then Lord keeper of the great seal of *England*, the same court then being at *Westminster* in the county aforesaid, took the several oaths, commonly called the oaths of allegiance and supremacy, and the oath of abjuration, and likewise then and there subscribed the declaration in that case by the statute required, as by the record thereof in the same court remaining more fully is manifest and appears: And the said *N. Lloyd* farther says, that the Lady the now Queen, after the said *Thomas Duke of Norfolk* had so as aforesaid appointed the said *Henry*, now *Earl of Bindon*, his deputy to execute the office aforesaid of Marshal of *England*, to wit, 24th day of *August 1706*, by her letters under the privy signet at *Westminster* aforesaid made, according to the form of the statute aforesaid, approved the same *Henry Earl of Bindon* to be the deputy of the said *Thomas Duke of Norfolk*, to execute the office aforesaid, according to the tenor of the deputation aforesaid by the said *Thomas Duke of Norfolk* to the same *Henry Earl of Bindon* as aforesaid made: And the said *N. Lloyd* farther says, that 26th day of *April 1707*, and long before and continually afterwards from thence hitherto, the office of constable of *England* was vacant, and that the same *James Collet*, Knt. on the same 26th day of *April 1707*, and long before and continually afterwards bore, caused to be used and usurped, the arms and coat of arms contained in the articles in the said declaration mentioned, as his family arms, which did not belong to him, to wit, at *Westminster* aforesaid in the county aforesaid; whereupon afterwards, to wit, the same 26th day of *April*, at the promotion of the said *N. Lloyd*, being then advocate Royal in the court aforesaid, the same *Henry Earl of Bindon* being as aforesaid, with the Royal approbation, deputy or vicegerent, or surrogate, of the said *Thomas Duke of Norfolk*, Lord Marshal of *England*, &c. at *Westminster* aforesaid in the court of honour then and there held, sent process in writing, directed to all and singular justices of the peace, sheriffs, bailiffs, constables and officers, and also to all his Majesty's faithful subjects whomsoever in and throughout the whole kingdom of *England* wheresoever constituted, but especially to *Thomas Houseman*, mandatory or marshal of the court of the said *Henry Earl of Bindon*, by the Royal approbation, deputy or vicegerent, or surrogate, of the said *Thomas Duke of Norfolk*, Lord Marshal of *England*; by which said process the same *Henry Earl of Bindon*, by the Royal approbation, deputy or vicegerent, or surrogate, of the said *Thomas Duke of Norfolk*, Lord Marshal of *England*, to all and singular justices of the peace, sheriffs, bailiffs, constables and officers, and also to all his Majesty's faithful subjects whomsoever in and throughout the whole kingdom of *England* wheresoever constituted, but especially to *Thomas Houseman*, mandatory or marshal of the court aforesaid, jointly and severally committed, and by firmly injoining, commanded that they should cite, or cause to be cited, peremptorily the said *Sir James Collet*, Knt. that he should appear before the same *Henry Earl of Bindon*, or his vicegerent or surrogate, or other judge in that behalf competent whatsoever, on *Wednesday*, to wit, the 9th day of *May* between the hours of 3 and 4 in the afternoon of the same day, to answer to certain articles, heads or interrogatories concerning his contempt of the jurisdiction and authority of the same *Henry Earl of Bindon*, by the Royal approbation, deputy of *Thomas Duke of Norfolk*, Lord Marshal of *England*, &c. and the office and law of arms, and particularly in bearing, usurping, shewing and causing to be used arms, and a coat of arms, as his proper family arms, and coat of arms which did in no manner belong to him, and which by the law of arms he could not nor ought in justice to bear, and farther to do and receive what should be right in that behalf; and that they should duly certify what they should do in the premises to the said *Henry Earl of Bindon*, by the Royal approbation, deputy of *Henry Duke of Norfolk*, Lord Marshal of *England*, &c. or his vicegerent, or other judge in that behalf competent whatsoever; which said process afterwards, to wit, the same day and year at *Westminster* aforesaid, was delivered to the same *Thomas Houseman* in form of law to be executed; by virtue of which said process the said *Thomas Houseman* afterwards, to wit, on the said day of the return of that process, to wit, on the 9th day of *May 1707* aforesaid in the court of honour aforesaid, before the said *Henry Earl of Bindon*, of *Thomas Duke of Norfolk*, Lord Marshal of *England*, &c. by Royal approbation, deputy or vicegerent;

gerent, to wit, at *Westminster* aforesaid returned the process aforesaid in all things served and executed, at which said court of honour duly there held; the same *James Collet* appeared, and the said *Nathaniel Lloyd* then and yet being advocate Royal in the same court, according to the said custom of the court aforesaid, for all the said time used and approved, exhibited, and caused to be exhibited, in the same court of honour, the articles aforesaid in the declaration aforesaid abovementioned, as according to the custom of the court aforesaid for all the time aforesaid used and approved he lawfully might and ought; which said process, citation and articles for the cause abovesaid, in manner and form prosecuted, issued and promoted, are the same grievances whereof the same *James Collet*, Knt. above in declaring hath alledged: And this the same *Nathaniel Lloyd* is ready to verify: Wherefore he prays judgment, and the writ of the said Lady the Queen of consultation to him in this behalf to be granted, &c.

Tbo. Parker,
Ro. Raymond.

Demurrer.

And the said *James Collet*, who as well, &c. as to the plea of the said *Nathaniel* to have the writ of the Lady the Queen of consultation above pleaded, by protesting, that from time immemorial no such court of honour, as in the said plea of the said *Nathaniel* and in his libel aforesaid is above specified, was held, nor hath been accustomed to be held, nor lawfully could be held, either before the constable of *England*, or before the marshal of *England* for the time being separately, nor before the deputy or vicegerent, or surrogate, of either of them, as the said *Nathaniel Lloyd* above hath alledged; neither hath any such court of honour ever been accustomed to be held, nor ought, nor lawfully could be held, unless before the constable of *England* and the marshal of *England* for the time being jointly, or the deputy or vicegerent, or surrogate, of both of them, for plea says, that the same plea of the said *Nathaniel* for a consultation so as aforesaid pleaded, and the matter in the same contained, are not sufficient in law to maintain him the said *Nathaniel* to have such writ of consultation; and that the said *James*, who as well, &c. to that plea in manner and form aforesaid pleaded hath no necessity, nor is by the law of the land obliged in any manner to answer: And this he is ready to verify: Wherefore for want of a sufficient plea of the said *Nathaniel* in this behalf, the said *James Collet*, who as well, &c. prays judgment, and that no writ of the Lady the Queen of consultation in this behalf may be granted, and costs, &c. to him the said *James* to be adjudged, &c.

L. Agar.

Joinder.

And the said *Nathaniel Lloyd* says, that the said plea by the said *Nathaniel Lloyd* to have a consultation as aforesaid pleaded, and the matter in the same contained, are good and sufficient in law to maintain him the said *Nathaniel* to have such writ of consultation: And this the same *Nathaniel* is ready to verify: Which said matter the said *James* doth not deny, nor thereto in any wise answer; therefore the same *Nathaniel Lloyd* prays judgment, and that to the same *Nathaniel* the writ of the said Lady the now Queen of consultation in this behalf by the court here may be granted, &c. But because the court of the said Lady the Queen now here are not yet advised to give their judgment of and upon the premisses, day therefore is given to the parties aforesaid before the Lady the Queen at *Westminster* until to hear their judgment thereon, because the court of the said Lady the Queen now here thereof not yet, &c.

Pope

Pope against Crofs and another.

H. 13 W. 3. Roll 23. K. B.

BE it remember'd, that on the 20th day of June in this same term comes here into court Robert Pope of, &c. by John Lilly his attorney, and gives the court here to understand and be informed, that the town and hamlet of *Parson Drove* is, and from time out of mind hath been, an antient town and hamlet in the parish of *Levrington* in the county aforesaid, within which said town and hamlet there is, and for all the time aforesaid hath been, a certain antient parochial chapel or church, called the chapel of *St. John the Baptist*; which said church or parochial chapel contains in it not only the body of a church, but also a steeple, bells, seats, a font to baptize, a church-yard, and all other parochial ensigns for divine service there to be performed, and sacraments and sacramentals there to be celebrated: And whereas also the inhabitants of the said town and hamlet of *Parson Drove* for the time being, by the provision of the same town and hamlet, have for time out of mind, at their proper costs and charges, supported and maintained, and for all the time aforesaid have been used and accustomed to support and maintain a certain minister or chaplain in holy orders in the church of *England*, according to the rites and ordinances of the same church, to celebrate divine service, and the sacraments and sacramentals in the said parochial chapel or church in the town and hamlet of *Parson Drove* aforesaid to be celebrated, done and performed, and a clerk to attend and serve the said chaplain or minister in the celebration of divine service; which said minister or chaplain of the parochial chapel or church aforesaid for all the time aforesaid divine service, sacraments and sacramentals, in the said parochial chapel or church of the town or hamlet of *Parson Drove* aforesaid to the inhabitants of the town of *Parson Drove* aforesaid, by himself or his sufficient deputy, hath celebrated, and for all the time aforesaid hath been used and accustomed to celebrate: And whereas all and singular the chaplains and ministers of the parochial chapel or church of the town and hamlet of *Parson Drove* aforesaid for the time being, and for all the time aforesaid, have been used and accustomed yearly to go and perambulate in and about the limits, metes and bounds of the said town and hamlet of *Parson Drove*, in solemn procession: And whereas also the rector of the church of *Levrington* aforesaid and his predecessors, rectors of the same church respectively for the time being, and the inhabitants within the said parish of *Levrington* without the said town and hamlet of *Parson Drove* aforesaid, in their yearly perambulations yearly for all the time aforesaid made and used, never any perambulation within the limits and bounds of the said town and hamlet of *Parson Drove* aforesaid made, but out of the said town and hamlet of *Parson Drove* aforesaid, and the bounds of the same, have gone and walked, and the said town and hamlet of *Parson Drove*, and the limits and bounds of the said town and hamlet of *Parson Drove* aforesaid, out of their perambulations aforesaid have excluded, and to omit and exclude for all the time aforesaid have been used and accustomed: And whereas also the inhabitants of the said town and hamlet of *Parson Drove* to the church of *Levrington* aforesaid to perform divine service there, or to celebrate the sacraments, or any sacramentals whatever there, or to do or execute any other thing there, (except burial for the dead) at any time heretofore have not used to come, nor of right ought, but from the said church of *Levrington*, and the inhabitants of the parish of *Levrington*, as to the premises, (except burial aforesaid) are altogether separated and divided; and the said inhabitants of the said town and hamlet of *Parson Drove* have no seats or places to sit, nor places to be in the said church of *Levrington* aforesaid, nor ever at any time past hitherto, have had: And whereas also the said inhabitants of the town and hamlet of *Parson Drove* aforesaid from time out of mind the said parochial chapel or church at their own proper costs and charges have repaired and maintained, and of right ought to repair and maintain, and for all the time aforesaid have been used, and have at their own proper costs found and provided all and singular the ornaments and necessities for the said parochial chapel or church, and for all the time aforesaid have been used, and accustomed to find and provide, without any contribution or allowance thereto by any of the inhabitants in the parish of *Levrington* aforesaid, or by the rector of the said church of *Levrington*, made or allowed; and by reason of the premises, the said inhabitants of the said town and hamlet of *Parson Drove* aforesaid from the reparation of the said church of *Levrington* aforesaid, and from all impositions and taxes concerning the church of *Levrington* aforesaid, have been

Suggestion concerning the bounds of a parish.

free

free and acquitted for all the time aforesaid always hitherto, as of right they ought: And whereas also the inhabitants of the said town and hamlet of *Parson Drove*, every year for all the time aforesaid two church-wardens of the parochial chapel, or their church of *Parson Drove*, from the inhabitants of the said town and hamlet of *Parson Drove*, to execute and exercise that office for a year, have elected, appointed and ordained; which said church-wardens so elected the office of church-wardens of the parochial chapel or church of *Parson Drove* aforesaid have well and faithfully for all the time aforesaid executed, and the said inhabitants of *Parson Drove* aforesaid to the church-wardens of *Levrington* aforesaid have hitherto used to be in nothing subject or attendant, but have always hitherto been clear and free from them, and from all their taxations and presentments: And whereas also the trial and determination of the cause aforesaid is a matter triable at the common law, and ought not to be tried or determined in any manner by the laws or censures ecclesiastical, nor from time out of mind hath been accustomed to be: Nevertheless *John Cross* and *William Thacker*, now or late church-wardens of *Levrington* aforesaid, knowing all and singular the premisses to be true, contriving and intending the inhabitants of the said town and hamlet of *Parson Drove* to load with illegal charges, taxes and impositions, against the law of the land of this kingdom of *England*, and to violate and subvert the laudable customs aforesaid hitherto inviolably observed, the said *Robert Pope*, an inhabitant within the said town and hamlet of *Parson Drove*, and not elsewhere, at the time in the libel hereafter mentioned, or at any time then past, or at any time after hitherto, and not having any lands, tenements or possessions in the parish of *Levrington* aforesaid, out of the town and hamlet of *Parson Drove* aforesaid, whereby the said *Robert Pope* with the payment or contribution of a certain sum of money to the repairs of the church of *Levrington* lawfully or legally ought or could be charged to pay any rates, portions or sums of money, on him by the said *John Cross* and *W. T.* then or late wardens as aforesaid of the said church of *L.* aforesaid, and the parishioners of the said parish of *L.* or the major part of the same parishioners of the said parish of *L.* then present, and the rector of the said parish of *L.* to the repairs of the church of *L.* aforesaid the said *R. Pope* have unjustly taxed and imposed, and to pay have caused, or at least endeavoured; and for the non-payment thereof the same *J. Cross* and *W. T.* have prosecuted the said *R. Pope* in the court christian, before *W. Cooke*, doctor of laws, of the reverend *Simon*, by divine permission Lord Bishop of *Ely*, vicar general in spirituals, and official principal lawfully constituted, or his surrogate, or other judge in that behalf competent, against the law and customs aforesaid, cautiously and subtilly libelling against the said *R. Pope*, by the name of *R. Pope* of *Levrington Parson Drove*, commonly called *Parson Drove*, among other things, that in the months of *March A. M. J. J. A. S. O. N. D. J. F.* and *M.* happening respectively in the years 1697, 1698, and 1699 now current, and of those months and years every more than one or some, the parochial church of *L.* aforesaid was broken and ruinous, and had and hath sundry defects and decays, and did and doth want reparation, rebuilding, and necessary provision to be made; and by reason and occasion of the premisses, the taxation and contribution of the parishioners, inhabitants and others, lands, meadows, tenements and other things taxable within the parish of *Levrington* and *Levrington Parson Drove* respectively having, occupying and possessing, hath been, was and is necessary. *Item*, that the hamlet of *L. Parson Drove* was and is within the parish, limits and precincts of *L.* aforesaid, and was and is within the parish of *L.* aforesaid; and the church of *L.* aforesaid was the mother church of the same, and the chapel commonly called the chapel of *St. John the Baptist* there, and the said chapel of *St. John the Baptist* aforesaid in *Parson Drove* aforesaid, was and is a chapel of ease to the articulate mother church of *L.* aforesaid; so that 20th day of the month of *April* 1699, after lawful and sufficient notice and intimation to all and singular having or pretending to have interest in that behalf, openly and publickly in and about the parochial church of *L.* aforesaid on *Sunday*, to wit, 16th day of *April*, according to the accustomed places, while the greater part of the people were there present, made and published for a parish meeting at ten of the clock in the morning of the 20th day of *April* aforesaid in the town-hall in *L.* aforesaid; he propounds nevertheless of any other time, day, hour and place, in the said monition, notice or intimation aforesaid, the parishioners did meet and constitute a rate or tax towards the reparation of the ruins, defects and decays, of the said parochial church of *L.* aforesaid, in all necessities for the same by the said church-wardens, with the consent of the major and better part of the inhabitants and parishioners of *L.* aforesaid then and there present, 6*d.* the pound upon lands in *L.* and *Levrington Parson Drove* aforesaid, rightfully and lawfully, and according to the custom of the parish aforesaid, the bell being tolled at or about the hours of 9 or 10 of the clock to give the parishioners, and all concerned, fair and legal notice of the time and place of meeting, hath been and was made and constituted; wherein you the said *R. Pope* was
taxed

taxed, laid and rated the sum of 2*l.* of good and lawful money, for, &c. more or less respectively by you occupied and possessed within the hamlet of *Levrington Parson Drove* aforesaid, within the parish, precincts and rateable places of *L.* aforesaid, in the months and years libellate and articulate, or of them every more than one or some towards the said repairs, as by the declaration or libel aforesaid in the said court christian before the said judge spiritual, against the said *R. Pope* as aforesaid exhibited, among other things, more fully appears: And altho' the said *R. P.* all and singular the premisses in the said court christian before the said judge spiritual hath alledged, and the same with inevitable truth and testimony hath offered to prove: Nevertheless the said judge spiritual the said plea, allegation and proof, hath absolutely refused to admit or receive; and the said *John Cross* and *W. T.* the same *R. Pope* in the said court christian of and upon the premisses to cause to be condemned, and wrongfully to be compelled to pay the several sums of money in the libel aforesaid above specified, by the definitive sentence of the said court christian, with all their might endeavour and daily contrive, in contempt of the said Lord the now King, and to the manifest damage, prejudice and impoverishment of him the said *R. Pope*, against the law and customs aforesaid: And this the same *R. Pope* is ready to verify; Wherefore the said *R. Pope* most humbly imploring the aid and assistance of the court of the said Lord the King prays remedy, and the writ of the Lord the now King of prohibition to be directed to the said judge spiritual, to prohibit him that he may not farther hold before him the plea aforesaid in any manner touching the premisses: And it is granted him.

England, to wit. **B**E it remember'd, that on day next after (the first day of the Suggestion for a prohibition for scandalous words of a person in holy orders. term) in this same term before the Lady the Queen at *Westminster* comes *Elizabeth Adams* by *John Allen* her attorney, and gives the court of the Lady the Queen now here to understand and be informed, that whereas the *English* words following are words of heat and passion only, without any malice or intention to defame *G. Butler*, clerk, hereafter mentioned, in his person or function, and not so grievous, dangerous or scandalous, for the speaking or publishing whereof any action, citation or prosecution, in any court christian by the law of the land of this kingdom of *England* ought, hath been used or accustomed to be had or maintain'd: And whereas also all and all manner of pleas, or actions of trespass on the case, arising and happening within this kingdom of *England*, to the Lady the now Queen and her Royal crown, and to the temporal courts of the said Lady the Queen, and not to the court christian, according to the law and custom of the kingdom of *England* do belong and appertain: Nevertheless one *George Butler*, clerk, rector of the parochial church of *Lichborow* in the county and archdeanary of *North'ston* and diocese of *Peterborough*, well knowing the premisses, but contriving her the said *Elizabeth* wrongfully to aggrieve and oppress, the said *Elizabeth* being likewise an inhabitant within the parish aforesaid, to another proof in the court christian before the venerable man *R. Reynolds*, doctor of laws, of the reverend father in Christ *Richard*, by divine permission Lord bishop of the Borough of *St. Peter*, otherwise *Peterborough*, vicar in spirituals, official general, or his surrogate, against the due form of the law of this kingdom of *England*, and against the custom aforesaid, for a certain cause of a supposed contempt, scandal and disgrace of the said *George Butler*, hath wrongfully drawn in plea to answer to certain articles by the said *George* in the same court christian against her the said *Elizabeth* in the premisses exhibited and promoted, and cautiously and subtilly there articulating and objecting, that the said *Elizabeth* in the months of *September, October, November, December, January, February, &c.* last past, or in one of those months, within the said parish of *Lichborow* aforesaid, and other publick places to the same near, contiguous and adjoining, the said *George Butler* of or with the within written not defamed, but being in good reputation, did wickedly, falsely and maliciously defame, and some infamous, scandalous, opprobrious and defamatory words, sounding and tending to the infamy, hurt, blackening and diminution of the estate, good name and reputation of the said *George Butler*, and especially these *English* words, or others importing the same sense and effect, to wit, speaking to the said *George Butler*, You are a rogue and a rascal, with many other defamatory words, openly, publickly, and out of rage, hatred or envy, and with an intent to defame him, against good manners and the bond of charity, often, or at least once, and before credible witnesses spoke, asserted, pronounced and published; and the said *George* her the said *Elizabeth* in the said court christian before the said judge spiritual of and upon the premisses to appear hath wrongfully obliged, and the same *Elizabeth* thereupon there to answer, and in the premisses to cause to be condemned with all his might endeavours and daily contrives, in contempt of the said Lady the now Queen, and against the law and custom of this realm of *England*, to the manifest damage, prejudice and grievance of her the said *Elizabeth*: And this she is ready to verify: Wherefore the said *Elizabeth* most humbly imploring the aid of the court of the said Lady the Queen now here prays remedy, and the writ of the said Lady the Queen of prohibition to the said judge spiritual of the said court

court christian, or other judge in this behalf competent whatever, in form of law to be directed, to prohibit him that he may not farther hold before him the plea aforesaid in any wise touching the premisses aforesaid: And to her it is granted, &c.

Suggestion for a prohibition for scandalous words of a church warden.

England, to wit. **B**E it remember'd, that on day next after in this same term before the Lord the King at *Westminster* comes *J. T.* an inhabitant in the parish of *W.* in the county of *Sussex*, within the archdeanary of *Lewis* in the diocese of *Chichester*, by *J. L.* his attorney, and gives the court here to understand and be informed, that the venerable and excellent man *T. B.* doctor of laws, of the reverend father in Christ by divine permission Lord Bishop of *Chichester*, in and thro' the whole archdeanary of *Lewis* in the diocese of *Chichester*, commissary or official principal lawfully constituted, at the instance and promotion of *J. E.* late one of the wardens of the parochial church of *W.* aforesaid, against the due form of the law of this kingdom of *England* to aggrieve, oppress and fatigue, and to another proof in the court christian before the said *T. B.* to draw him the said *J. T.* for a certain cause of contempt, scandal and disgrace of the said *J. E.* lately hath drawn in plea, to answer to and upon certain articles by the said *T. B.* exhibited, cautiously and subtilly libelling, and in the same court christian against him the said *J. T.* articulating and objecting, that the said *J. T.* well knowing the said *J. E.* in the year of the Lord, &c. and in the months in the same year concurring, had been warden of the parochial church of *W.* in the county aforesaid, he the said *J. T.* in the year and months aforesaid in the year of the Lord, &c. and also in some or one of the months in the year of the Lord, &c. falsely, maliciously and scandalously, to and of the said *J. T.* (who had been warden and officer of the church) speaking, uttered and spoke in these *English* words following, or in others like them in effect, to wit, Thou, you or he art, are or is a cheating knave, and you have cheated the poor, and especially *J. N.* at *W.* aforesaid in the county aforesaid said, spoke and pronounced, *Item*, That you the said *J.* are a person that make it your business to scandalize and abuse your neighbours, and when you are drunk you do commonly slander them in most opprobrious words, and sow discord among them, to wit, at *W.* aforesaid in the county aforesaid, in all the months and years in the article aforesaid abovementioned; and the same *J. T.* in the court christian before the said judge spiritual to appear hath unjustly compelled, and the same *J. T.* in the court christian in the premisses to cause to be condemned, in contempt of the said Lord the now King, and against the law and custom of this kingdom of *England*, with all his might earnestly endeavours, to the manifest damage, prejudice and grievance of the said *J. T.* And this he is ready to verify: Wherefore the said *J. T.* most humbly imploring the aid of the court of the said Lord the King now here prays remedy, and the writ of the said Lord the King of prohibition to the said judge spiritual of the said court christian, or other judge in this behalf competent whatever, in form of law to be directed, to prohibit him that he may not farther hold before him the plea aforesaid in any wise touching the premisses: And to him it is granted, &c.

Hill. 7 Geo. Roll 721.

The entry of the inrolment of affidavits to prove the suggestion.
Pract. Reg. 385, 399.
29 C. 2. c. 5.
2 & 3 E. 6. c. 13. § 14.
par. 2.

Afterwards, to wit, on the 20th day of *M.* in the 7th year of the reign of the Lord *George*, now King of *Great Britain*, &c. at *Newcastle under Line* in the county of *S.* aforesaid, comes the said *Andrew Mills* by the said *H. G.* his attorney, before *R. A.* Gent. one of the commissioners by the justices of the Lord the King of the Bench at *Westminster* in the county of *Middlesex*, to take affidavits and depositions in and for the said county of *S.* duly constituted, according to the form of the statute in such case made and provided, and to prove and verify his suggestion aforesaid, and all and every thing in the same suggestion contained, on the part of him the said *Andrew* to be proved, according to the form of the statute in such case made and provided, hath produced two sufficient witnesses, to wit, *R. P.* of *M.* in the county of *S.* aforesaid, husbandman, and *T. M.* of *M.* aforesaid, Gent. which said *R. P.* and *T. M.* so produced by the said *R. A.* on the Holy Evangelists, to the truth of and upon the premisses in the suggestion aforesaid specified then and there were sworn; and the said *R. P.* on his oath aforesaid says and deposes in manner and form following, to wit, *R. P.* (*so on verbatim so except as before excepted*) which said affidavits or depositions *Peter King*, Knt. chief justice of the Lord the King of the Bench, afterwards, to wit, on the 9th day of *June* in the 7th year of the reign of the Lord the now King, at *Westminster* aforesaid hath allowed as proof of the suggestion of the said *Andrew* aforesaid, and then and there ordered and appointed them to be inrolled of record in the court of the said Lord the King of the Bench here: Therefore they are inrolled, &c.

Quare

Quare Impedit.

The King against Pryor and Dandy.

H. 7 W. 3. Roll 1720. in C. B.

England, to wit. **T**HE Lord the King hath sent to his trusty and beloved *George Treby*, Knt. his chief justice of the Bench his writ close in a *Quare Impedit*. *Parl. Rep. 164, 186, 212, 224.* in these words, to wit, *William the Third* by the grace of God of England, Scotland, France and Ireland King, defender of the faith, &c. to his trusty and beloved *George Treby*, Knt. his chief justice of the Bench, greeting: Whereas in the record and proceedings, and also in the rendition of the judgment of a plea which was in our court before you and your companions, our justices of the Bench, by our writ between us and *Thomas Pryor*, Gent. and *Thomas Dandy*, clerk, for that the same *Thomas* and *Thomas* unjustly hinder'd us from presenting a proper person to the church of *Shawell* in the county of *Leicester*, which is vacant and belongs to our donation, as it is said, a manifest error hath happened, to the great damage of them the said *Thomas* and *Thomas*, as by their complaint we have understood: We willing the error, if any hath been, should be duly corrected, and full and speedy justice done to the said *T.* and *T.* in this behalf, command you, that if judgment therein be given, then the record and proceedings aforesaid, with all things touching them to us under your seal, you distinctly and openly send, and this writ, so that we may have them from the day of wherefoever we shall then be in England, that the record and proceedings aforesaid being inspected, we may farther cause to be done therein to correct that error, what of right and according to the law and custom of our kingdom of England shall be to be done. Witness *Thomas* archbishop of *Canterbury*, and the other keepers and justices of the kingdom, at *Westminster* 11th day of *May* in the 8th year of our reign.

The answer of George Treby, Knt. the chief justice within named:

The record and proceedings of the plea, whereof mention is within made, with all things touching them, before the Lord the King wherefoever, &c. at the day within contained, I send in a certain record to this writ annexed, as I am within commanded.

Geo. Treby.

Pleas inrolled at Westminster before George Treby, Knt. and his companions, justices of the Lord the King of the Bench of Hillary term in the 7th year of the reign of the Lord William the Third, by the grace of God of England, Scotland, France and Ireland King, defender of the faith, &c. Roll 1720.

Otherwise, as it appears in *Hillary* term in the 6th year of the reign of the Lord the now King, *Roll 1732*, it is contained thus: *Leicester*, to wit, *T. P.* Gent. and *T. D.* clerk, were summoned to answer to the Lord the now King and to the Lady *Mary* late Queen of *England*, &c. in a plea, that they may permit them the said Lord and Lady the King and Queen to present a proper person to the church of *Shawell*, which is vacant and belongs to their donation, &c. And whereon *Edward Ward*, Knt. the attorney general of the said Lord the now King, who for the said Lord the King prosecutes, for the said Lord the King says, that *Charles* the Second, late King of *England*, was seised of the Count, that C. 2. was seised of the advowson in gross,

the advowson of the church aforesaid, as of a gross by itself, as of fee and right, in the right of his crown of *England*; and being so thereof seised, the same late King *Charles* the Second to the same church, being vacant, presented one *John Parkes* his clerk, who on the presentation of him the said late King was admitted, instituted and inducted into the same, in the time of peace in the time of the said late King *Charles* the Second; and the said late King being so as aforesaid seised of the advowson of the church aforesaid, the same late King *Charles* the Second afterwards at *Westminster* in the county of *Middlesex* died so thereof seised; after whose death the advowson of the church aforesaid descended to the Lord *James* the Second, late King of *England*, as brother and heir of the said late King *Charles* the Second, whereby the same late King *James* the Second was seised of the advowson aforesaid, as of a gross by itself, as of fee and right, in the right of his crown of *England*; and the same late King *James* the Second so being thereof seised, afterwards at *Westminster* aforesaid abdicated himself from the government of his kingdom of *England*, whereby the advowson of the church aforesaid came to the said Lord the now King and the Lady the late Queen, whereby the same Lord the now King and the Lady the late Queen were seised of the advowson aforesaid, as of a gross by itself, as of fee and right, in right of their crown of *England*; and they being so thereof seised, the church aforesaid became vacant by the death of the said *J. P.* and yet is vacant, and on that account to them the said Lord the King and the Lady the late Queen it did belong, and to him the said Lord the now King it doth at present belong to present a proper person to the said church, being vacant; and the said *T. P.* and *T. D.* them the said Lord the King and the Lady the late Queen have hinder'd, and him the said Lord the now King do thereof unjustly hinder, to the damage of the said Lord the King 200*l.* And this the same attorney general for the said Lord the King is ready to verify, &c.

Impar lance. And the said *T. P.* in his proper person, and the said *T. D.* by *T. P.* his attorney come and defend the force and injury when, &c. and pray leave to imparl thereto here from the day of *Easter* in fifteen days; and they have, &c. The same day is given to the said attorney general of the said Lord the now King, who, &c. here, &c. On which day here come as well the said attorney general of the said Lord the now King, who, &c. as the said *T. P.* in his proper person, and the said *T. D.* by the said *T. P.* his attorney aforesaid; and hereupon the same *T. P.* and *T. D.* farther pray leave to imparl thereto here until on the morrow of the Holy *Trinity*; and they have, &c. The same day is given to the said attorney general of the said Lord the now King, who, &c. here, &c. On which day here come as well the said attorney general of the said Lord the now King, who, &c. as the said *T. P.* in his proper person, and the said *T. D.* by the said *T. P.* his attorney aforesaid; and upon this the same *T. P.* and *T. D.* pray leave to imparl thereto here until from the day of *St. Michael* in three weeks; and they have, &c. The same day is given to the said attorney general of the said Lord the now King, who, &c. here, &c. On which day here come as well *T. Trevor*, Kt. now attorney general of the said Lord the now King, who for the same Lord the now King prosecutes, as the said *T. P.* in his proper person, and the said *T. D.* by the said *T. P.* his attorney aforesaid; and hereupon the same *T. P.* and *T. D.* farther pray leave to imparl thereto here until in the Octave of *St. Hillary*; and they have, &c. The same day is given to the said attorney general of the said Lord the King, who, &c. And now here on this day, to wit, the said Octave of *St. Hillary*, come as well the said *T. Trevor*, Kt. attorney general of the said Lord the now King, who, &c. as the said *T. P.* in his proper person, and the said *T. D.* by the said *T. P.* his attorney aforesaid; and the said *T. Trevor*, Kt. attorney general of the said Lord the now King, who, &c. prays that the said *T. P.* and *T. D.* to the declaration aforesaid may answer; whereupon the said *T. P.* and *T. D.* as before, defend the force and injury when, &c. And the same *T. P.* the now defendant, says, that one

P. T. seised of the manor of *S.* to which, &c. And demised it to *T. T.* for 1000 years, *P. Temple*, Esq; was seised of the manor of *Shawell* with the appurtenances in the county aforesaid, to which the advowson of the church aforesaid belonged in his demesne as of fee; and so being thereof seised, the same *P. T.* afterwards, to wit, the 17th day of *February* 1653, at *S.* aforesaid, by his certain indenture made between him the said *P.* on the one part, and one *T. Tory*, Esq; on the other part, one part whereof sealed with the seal of the said *Peter*, the same *T. P.* the now defendant here in court produces, the date whereof is the same day and year, demised to the same *T. Tory* the manor aforesaid with the appurtenances to which, &c. To have and to hold to the same *T. Tory*, his executors, administrators and assigns, for and during the term of 1000 years from thence next ensuing and fully to be compleat and ended, as by the same indenture, among other things, is more fully manifest and appears: By virtue of which said demise, the same *T. Tory* into the manor aforesaid with the appurtenances to which, &c. entred, and was thereof possessed for the said term of 1000 years to him as aforesaid granted; and being so thereof possessed, the same *T. Tory* afterwards, to wit, the 25th day of *July* in the year of the Lord 1656, at *S.* aforesaid, by his certain indenture tripartite made between him the said *T. T.* of the first part, and the said *T. P.* of the second part, and one *T. Plampin* of the third part, the first part of which said indenture, sealed with the seal of the said *T. T.* the same *T. P.* here in court produces, the date whereof is the same day and year, granted and assigned to the said *T. Plampin* all his estate, right, title and interest,

who assigned it to *T. Plampin*,

interest, and term of years, of and in that manor with the appurtenances to which, &c. then to come and unexpired: By virtue of which said grant and assignment the same T. P. into the manor aforesaid with the appurtenances to which, &c. entred, and was thereof possessed; and being so thereof possessed, the reversion thereof to the said P. T. in form aforesaid belonging, the church aforesaid became vacant by the death of W. Astill, clerk, the then incumbent of the church of S. aforesaid, whereby the said T. P. to the same church, being then vacant, presented one J. P. his clerk, who on the presentation of the same T. Plampin was admitted, instituted and inducted, into the same in the time of peace in the time of the said Charles the Second, late King of England, &c. and the said T. P. of the manor aforesaid with the appurtenances to which, &c. in form aforesaid being possessed, and the church aforesaid of the said J. P. the incumbent of the same, so as aforesaid being full and consulted, the said T. P. afterwards, to wit, the day of in the year at S. aforesaid died intestate of the manor aforesaid with the appurtenances to which, &c. for the residue of the said term of 1000 years, in form aforesaid demised, and as aforesaid possessed; after whose death administration of all and singular the goods and chattels, rights and credits, which belonged to the said T. P. at the time of his death, by William by divine providence archbishop of Canterbury, primate and metropolitan of all England, at S. aforesaid, on the 20th day of M. 1691, to one E. P. the natural and lawful son of the said T. P. was duly committed: By virtue whereof the same E. P. into the manor aforesaid with the appurtenances to which, &c. entred, and was thereof possessed by reason of the administration aforesaid; and so being possessed of the manor aforesaid with the appurtenances to which, &c. and the said J. P. being in the actual possession of the said church of S. and so incumbent of the same, the said E. P. afterwards, to wit, on the 20th day of February 1691, by his certain writing, which the said T. P. the now defendant, sealed with the seal of the said E. here in court produces, the date whereof is the same day and year, at S. aforesaid, gave and granted to the said T. P. the now defendant, the next advowson, donation, collation, free presentation, and free disposition of the parochial church of S. aforesaid, for the then next avoidance and next advowson of the same; so that it should and might be lawful for the said T. P. and his assigns, by virtue of the writing aforesaid, to present any proper person to the church aforesaid, when the same church as aforesaid by death, resignation, privation, cession, or any other ways or means whatever, should next happen to be vacant, as by the writing aforesaid, among other things, is more fully manifest and appears: By virtue of which grant the same T. P. was possessed of the advowson of the same church for the first and next avoidance of that church; and so being thereof possessed, the church aforesaid afterwards, to wit, on the day of 1694 became void by the death of the said J. P. whereby the said T. P. the now defendant, to the same church, so being vacant, presented the said T. D. his clerk, who on the presentation of him the said T. P. was admitted, instituted and inducted into the same, and by virtue of that presentation was put into the actual possession of the same church in the time of peace in the time of the Lord the now King and of the Lady Mary late Queen of England, and in the same is canonically parson imparsonce of that church; without that, that the said J. P. was admitted and instituted in that church on the presentation of the said late King Charles the Second; as by the declaration aforesaid is above supposed: And this he is ready to verify: Wherefore he prays judgment if the said Lord the now King ought to have his action aforesaid against him, &c.

who present-
ed, &c. and
died;

and his admi-
nistrators
granted the
next present-
ment to the
defendant T.
P. who pre-
sented the o-
ther defen-
dant, &c.

Traverse.

And the said T. D. says, that he is parson of the said church of S. aforesaid, imparsonce in the same on the presentation of the said T. P. which said presentation to him the said T. P. for the cause and in the form aforesaid by him the said T. P. above alledged, belonged; without that, that the said J. P. was admitted and instituted in that church on the presentation of the said late King Charles the Second, as by the declaration aforesaid is above supposed: And this he is ready to verify: Wherefore he prays judgment if the said Lord the now King ought to have his action aforesaid against him, &c.

The incum-
bent says he is
parson impar-
sonce, and
traverses as
above.

And the said T. T. Knt. attorney general of the said Lord the King; who for the said Lord the King prosecutes, as to the said plea of the said T. P. above pleaded in bar, for the said Lord the King says, that the said Lord the now King by any thing in the same plea before alledged ought not to be precluded from his action aforesaid against the same T. P. had, because he says, as before is said, that the said J. P. was admitted and instituted in the church aforesaid on the presentation of the said late King Charles the Second, in manner and form as by the declaration aforesaid above is supposed: And this the said attorney general of the said Lord the now King, who, &c. for the same Lord the King is ready to verify where and when, and as the court here will consider; and the said T. P. likewise: And as to the said plea of the said T. D. above in bar pleaded, the same T. T. the attorney general of the said Lord the now King, who, &c. for the same Lord the King says, that the said Lord the now King by any thing in the same plea before alledged ought not to be precluded from his action aforesaid against the same T. D. had, because he says, as before is said, that the said J. Parkes was admitted and instituted in the church aforesaid on the presentation of the said late King Charles the Second, in manner and form as by the declaration aforesaid above is supposed: And this the same attorney general of the said Lord the now King, who, &c. for the same Lord the King is ready to verify where and when, and as the court here will consider; and the said T. D. likewise: Therefore to try as well the issue aforesaid between the same Lord the King and the said T. D.

Issue on the
patron's tra-
verse.

Issue on the
incumbent's
traverse.

above joined, as the said issue between the same Lord the King and the said *T. P.* above joined, because the trial and cognisance of those issues belongs to the ecclesiastical court, and ought to be tried there, and from thence certified to the justices here; therefore the reverend father in Christ *James* bishop of *Lincoln*, the ordinary of that place, is commanded, that the parties in this behalf proper to be called being called before him, he diligently inquire concerning the truth of the fact on the premises, and what he shall find thereon cause to be certified to the justices here from the day of *Easter* in 15 days by his letters patent and close: The same day is given as well to the said attorney general, who, &c. as to the said *T. P.* and *T. D.* here, &c. And now here on this day, to wit, the said 15th day of *Easter*, come as well the said *T. T.* Knt. attorney general of the said now Lord the King, who, &c. as the said *T. P.* in his proper person, and the said *T. D.* by *T. P.* his attorney aforesaid; and the said *James* bishop of *Lincoln*, by his letters patent and close hath certified to the justices here, that he, by virtue of the writ aforesaid to him directed, the registers and other memorandums of him and his predecessors, late bishops of *Lincoln*, being searched, and all other matters in the same writ specified belonging to his pastoral office in that behalf being rightly and duly observed, according to the order of the ecclesiastical law, and also the parties in that behalf proper to be called being called, hath made diligent inquiry concerning the truth of the fact of and upon the issues in the same writ mentioned, whereby he hath plainly and evidently perceived and found by lawful proof and other things in this behalf requisite, and the same bishop to the justices here hath certified, that the said *J. P.* on the 30th day of *November* 1671, at *B.* in the county of *H.* within the diocese of *Lincoln*, by *William* late bishop of the same diocese, on the presentation of the Lord *Charles* the Second, late King of *England*, in the said church of *S.* was admitted and instituted: Therefore it is considered, that the said Lord the now King do recover against the said *T. P.* and *T. D.* his presentation to the said church of *S.* aforesaid, and have a writ to the said *J.* that notwithstanding the claim of the said *T. P.* and *T. D.* altho' the same *T. D.* to the same church is admitted, instituted and inducted, he remove the said *T. D.* from the said church, and without delay admit a proper person to the same church, at the presentation of the said Lord the King: And the said *T. P.* and *T. D.* in mercy, &c.

The King against The Bishop of London and Lancaster.

Hill. 4 & 5 W. & M. in K. B. Roll 965.

Count where the King is intitled *rati-
one prerogativa.* Midd, to wit. **H**enry bishop of *London*, and *W. Lancaster* professor of divinity, were summoned to answer to the Lord and Lady the now King and Queen in a plea, that they may permit the said Lord and Lady the King and Queen to present a proper person to the vicarage of the church of *St. Martin in the Fields*, which is vacant and belongs to their donation, &c. And whereon *John Somers*, Knt. attorney general of the said Lord and Lady the now King and Queen, who for the said Lord and Lady the King and Queen prosecutes, for the same Lord and Lady the King and Queen says, that *Humphry* late bishop of *London* was seised of the advowson of the vicarage of the parochial church of *St. Martin in the Fields* aforesaid, as of a gross by itself, as of fee and right, in the right of his bishoprick aforesaid; and being so thereof seised, he the said late bishop, because the same vicarage was in his diocese of *London*, collated the same vicarage, being vacant, on *T. Lamplugh*, professor of divinity, his clerk, who by virtue of that collation was put into the actual possession of that vicarage in the time of peace in the time of *Charles* the Second, late King of *England*, &c. and the same *Thomas* being as aforesaid vicar of the same vicarage, the said *T. Lamplugh* was afterwards rightfully and canonically created and consecrated bishop of the bishoprick of *Exeter*, and the vicarage aforesaid became vacant by the promotion of the said *T. Lamplugh* to the said bishoprick of *Exeter*, whereby it belonged to the same late King *Charles* the Second, by reason of his Royal prerogative annexed to his crown of *England*, to present a proper person to the vicarage aforesaid so being vacant; wherefore the said late King *Charles* the Second, by reason of his Royal prerogative aforesaid, to the vicarage aforesaid then so being vacant, presented *William Lloyd*, professor of divinity, his clerk, who on the same presentation of the said late King was admitted, instituted and inducted, into the same in the time of peace in the time of the said late King; and the same *William Lloyd* being as aforesaid vicar of the vicarage aforesaid, the same *William Lloyd* was afterwards rightfully and canonically created and consecrated bishop of the bishoprick of *Asaph*, and the vicarage aforesaid became vacant by the promotion of the said *William Lloyd* to the said bishoprick of *Asaph*, whereby it belonged to the said late King *Charles* the Second, by reason of his Royal prerogative annexed to his crown of *England*, to present a proper person to the vicarage aforesaid so being vacant; wherefore the said late King *Charles* the Second, by reason of his Royal prerogative aforesaid, to the vicarage aforesaid so being vacant presented *Thomas Tenison*, professor of divinity, his clerk, who on the same presentation of

Bishop of *L.* seised of the advowson, who collated *T. L.*

who was consecrated bishop of *Exon.*

*C. 2. present-
ed rati-
one prerogativa
W. L.*

who was consecrated bishop of *St. Asaph.*

*C. 2. present-
ed T. T. ra-
tione prerogativa.*

of the said late King was admitted, instituted and inducted, into the same in the time of peace in the time of the said late King; and the said *Thomas Tenison* being as aforesaid vicar of the vicarage aforesaid, the same *Thomas Tenison* was afterwards rightfully and canonically created and consecrated bishop of the bishoprick of *Lincoln*; and the vicarage aforesaid became vacant by the promotion of the said *Thomas Tenison* to the said bishoprick of *Lincoln*, and yet is vacant, wherefore it at present belongs to them the said Lord and Lady the now King and Queen, by reason of their Royal prerogative aforesaid, to present a proper person to the vicarage aforesaid so being vacant; and the said *Henry* bishop of *London* and *William Lancaster* unjustly hinder them the said Lord and Lady the now King and Queen, to the damage of the said Lord and Lady the now King and Queen 500*l*. And this the same attorney general of the said Lord and Lady the now King and Queen, who, &c. for the same Lord and Lady the King and Queen is ready to verify, &c.

And the said *Henry* bishop of *London* and *W. Lancaster* by *A. B.* their attorney come and defend the force and injury, &c. and pray oyer of the writ aforesaid; and to them it is read in these words, to wit, *William and Mary* by the grace of God of *England, Scotland, France and Ireland* King and Queen, defenders of the faith, &c. To the sheriffs of *London*, greeting: Command *Henry* bishop of *London*, and *W. Lancaster* professor of divinity, that they justly and without delay permit us to present a proper person to the vicarage of the church of *St. Martin in the Fields*, which is vacant and belongs to our donation, and whereof the said Bishop and *William* have unjustly hinder'd us, as it is said; and unless they shall do it, summons by good summoners the said Bishop and *William*, that they be before us from the day of *St. Michael* in three weeks to shew why they have not done it; and have there the summoners, and this writ. Witness Ourselves at *Westminster* 26th day of *September* in the fourth year of our reign. *Cæsar*. Which being read and heard, they the said Bishop and *William* pray judgment of the writ and declaration aforesaid, because they say, that between the writ and count aforesaid there is a material variance, in this, to wit, that where by the writ aforesaid the said Lord and Lady the King and Queen intitle themselves to the donation of the said vicarage of the church of *St. Martin in the Fields* in full right, yet by the count aforesaid the same Lord and Lady the King and Queen intitle themselves to the donation of the same vicarage, by reason of their prerogative Royal annexed to their crown of *England*; wherefore for the variance aforesaid between the writ and count aforesaid, the same Bishop and *William* pray judgment of the writ and count aforesaid, and that the said writ may be quashed, &c.

Fr. Pemberton,
Creswell Levinz,
Bartho. Shower.

And the said attorney general of the said Lord and Lady the now King and Queen, who for the same Lord and Lady the now King and Queen prosecutes, for the same Lord and Lady the King and Queen says, that the said plea of the said *Henry* bishop of *London* and *William Lancaster* for quashing the writ aforesaid above pleaded, and the matter in the same contained, are not sufficient in law to quash the writ aforesaid; and that he the same attorney general, who, &c. for the same Lord and Lady the King and Queen to that plea in manner and form aforesaid pleaded hath no necessity, nor is by the law of the land obliged to answer: And this the same attorney general, &c. for the same Lord and Lady the King and Queen is ready to verify: Wherefore for want of a sufficient answer of them the said Bishop and *William* in this behalf, the same attorney general, &c. for the same Lord and Lady the King and Queen prays judgment, and that the writ aforesaid may be adjudged good: And a writ to the Bishop, &c.

Edw. Ward,
Tho. Trevor.

And the said *Henry* bishop of *London* and *William Lancaster* say, that the said plea of them the said *Henry* bishop of *London* and *William Lancaster* for quashing the writ aforesaid above pleaded, and the matter in the same contained, are good and sufficient in law to quash the writ aforesaid: Wherefore because the said attorney general of the said Lord and Lady the now King and Queen to that plea doth not answer, nor in any wise deny it, the same *Henry* bishop of *London* and *William Lancaster* as before pray judgment of the writ and count aforesaid, and that the said writ may be quashed, &c. But because, &c.

The

The King against The Archbishop of York and Sowton.

Writ of error.
Parl. Rep. 88,
104.
3 Lev. 16.

Charles the Second, by the grace of God of *England, Scotland, France and Ireland* King, defender of the faith, &c. To our justices assigned to take assises in the county of *York*, greeting: Whereas in the record and proceedings of a certain plea which was in our court before *Francis North*, Knt. our chief justice of the Bench, and his companions our justices of the Bench, by our writ between us and *Richard* Archbishop of *York*, and *Stephen Sowton*, clerk, for this, that the same Archbishop and *Stephen* should permit us to present a proper person to the church of *Fowlton*, otherwise *Fowleston*, in the county of *York*, which was vacant and belonged to our donation; as it was said, and also in the rendition of the judgment of the same plea before you at the assises held at the castle of *York* in the county aforesaid, by our writ of *Nisi prius*, according to the form of the statute thereof made and provided, a manifest error hath happened, to the great damage of them the said Archbishop and *Stephen*, as by their complaint we have understood: We willing the error, if any hath been, should be duly corrected, and full and speedy justice done to the said Archbishop and *Stephen* in this behalf, command you, that if judgment before you at the assises aforesaid be given, then the record and proceedings of the plea aforesaid, with all things touching them, to us under your seals you distinctly and open send, and this writ, so that we may have them from the day of *St. Michael* in three weeks wheresoever we shall then be in *England*, that the record and proceedings aforesaid being inspected, we may farther cause to be done therein what of right and according to the law and custom of our kingdom of *England* shall be to be done. Witness Ourself at *Westminster* 25th day of *July* in the 34th year of our reign.

Price.

By *Robert Sawyer*, Knt. attorney general of the Lord the King.

The answer of Thomas Jones, Knt. one of the justices of the Lord the King, assigned to hold pleas before the King himself, and Edward Atkyns, Knt. one of the barons of the Exchequer of the said Lord the King, justices of the said Lord the King of Assise within mentioned:

The record and proceedings of the plea, whereof mention is within made, with all things touching them, before the Lord the King wheresoever, &c. on the day within contained, we send in a certain record to this writ annexed, as we are within commanded.

Tho. Jones,
Edw. Atkyns.

Pleas at Westminster before Francis North Knt. and his companions, justices of the Lord the King of the Bench of Trinity term in the 33d year of the reign of the Lord Charles the Second, by the grace of God of England, Scotland, France and Ireland King, defender of the faith, &c. Roll 1842.

3 Lev. 16.

Respond' ou-
ter.

Parson im-
parsonce.

Earl of Car-
lisle seised in
gross, and pre-
sented W. D.

Otherwise, as it appears in *Hillary* term last past, *Roll 495*, it is contained thus, to wit, *York*, to wit, *Richard* Archbishop of *York*, and *Stephen Sowton*, clerk, were summoned to answer to the Lord the now King in a plea, that they may permit the said Lord the King to present a proper person to the church of *Fowlton*, otherwise *Fowleston*, which is vacant and belongs to his donation, &c. And whereon *C. Levinz*, Knt. attorney general of the said Lord the King, who for the same Lord the King in this behalf prosecutes, for the same Lord the King says, &c. [unto] On which day here comes as well the said *C. Levinz* attorney general of the said Lord the King, who, &c. in his proper person, as the said *Stephen* by his attorney aforesaid; and hereupon the said plea of the said *Stephen* above for quashing the writ aforesaid above pleaded being seen, and by the justices here more fully understood, it seems to the same justices here, that the matter by the same Lord the King in his writ aforesaid alledged is sufficient in law to maintain his writ aforesaid, any matter by the said *Stephen* above alledged notwithstanding: Therefore it is considered, that the said *Stephen* do answer the said Lord the King to his writ and count aforesaid, &c.

And hereupon the said *Stephen* as before defends the force and injury when, &c. and says, that he is parson of the church of *Fowlton*, otherwise *Fowleston* aforesaid, imparsonce in the same, on the presentation of the said *W. Stephens*; and says the said Lord the now King ought not to trouble or impeach him the said *Stephen* by reason of the premises, because he says, that well and true it is, that the said *Earl of Carlisle* was seised of the advowson of the church aforesaid, as of a gross by itself, as of fee and right; and being so thereof seised, to the church aforesaid, being vacant, presented the said *W. Dealtry* his clerk, who on the presentation of him the said *Earl* was admitted, instituted and inducted, into the same in the time of peace in the time of the said Lord the now King; and that the same *Earl*, the church aforesaid being full and consulted, afterwards at *Fowlton*, otherwise *Fowleston* aforesaid, by his writing aforesaid, gave and granted to *T. S.* clerk, the first and next advowson, donation, presen-

presentation and free disposition of the church aforesaid for the first and next avoidance of and after the same only: By virtue of which grant the same *Thomas* was possessed of the advowson of granted the church aforesaid for the first and next avoidance of the same; and being so thereof possession to *T. S.* possessed, the same *Thomas* afterwards at *Fowltun*, otherwise *Fowleston* aforesaid, by his writing who assigned aforesaid granted and assigned to the said *W. Stephens* all his right, estate, title and interest it to *W. S.* by aforesaid, which he then had of and in the advowson aforesaid, by virtue whereof the same whom the defendant was *W. Stephens* was of the advowson of that church for the said first and next avoidance of the presented. the same possessed; and that he the said *W. Stephens* being so thereof possessed, the church aforesaid became void by the death of the said *W. Dealtry* the last incumbent in manner and form as in the declaration aforesaid for the said Lord the now King is above supposed: But the said *Stephen* farther says, that the said *W. Stephens* of the advowson aforesaid in form aforesaid being possessed, to the church aforesaid, so as aforesaid being vacant, spontaneously, lawfully, simply and absolutely presented the said *Stephen* his clerk, as he well might; who on the presentation of him the said *W. Stephens* was admitted, instituted and inducted, into the same in the time of peace in the time of the said Lord the now King, and now is parson imparsonnee in the same church on that presentation; without that, that it was simoniacally and corruptly agreed between the said *Stephen* and the said *Anne Stephens* in manner the simony. and form as by the declaration aforesaid for the said Lord the now King is above supposed: And this he is ready to verify: Wherefore he prays judgment if the said Lord the now King will or ought to trouble or impeach him by reason of the premisses, &c.

And the same attorney general, &c. for the said Lord the King as before says, that the church aforesaid being vacant, it was simoniacally and corruptly agreed between the said *Stephen* and the said *A. Stephens*, as by the declaration aforesaid for the said Lord the King is above supposed: And this for the same Lord the King he prays may be inquired of by the country: And the said *Stephen* likewise: Therefore the sheriff is commanded, that he cause to come here from the day of the Holy Trinity in 3 weeks 12, &c. by whom, &c. and who ed. neither, &c. to recognize, &c. because as well, &c. On which day the jury between the said Lord the now King and the said *S. Sowton* in the plea aforesaid was respited between them here until this day, to wit, from the day of St. Michael in three weeks then next following, unless the justices of the Lord the King, assigned to take assises in the county aforesaid, by the form of the statute, &c. should first come on Wednesday 13th day of July last past at the castle of York in the county aforesaid: And now here on this day comes as well the said *R. Sawyer*, attorney general of the said Lord the King, who, &c. in his proper person, as the said *Stephen* by his attorney aforesaid: And the said justices of assise before, &c. have sent here their record in these words: Afterwards the day and place within contained before *William The postea. Dolben*, Knt. one of the justices of the Lord the King, assigned to hold pleas before the King himself, and *W. Gregory*, Knt. one of the barons of the Exchequer of the said Lord the King, justices of the said Lord the King, assigned to take assises in the county of York, by the form of the statute, &c. comes as well the within named *R. Sawyer*, Knt. attorney general of the Lord the King in his proper person, who for the same Lord the King in this behalf prosecutes, as the within written *S. Sowton* by his attorney within contained: And hereupon publick proclamation being made here in court, &c. and the jurors of that jury being called likewise come; and upon this the said *Stephen* challenges the array of the panel within written, because he says, that the town of *Fowltun*, otherwise *Fowleston*, from which neighbourhood the jurors aforesaid were returned, lies, is, and at the time of arrayment of the panel aforesaid was situate and lying within the hundred or wapentage of *Dicking* in the county aforesaid: And farther says, that no four of the jurors of the said panel have any thing within the hundred or wapentage of *Dicking* aforesaid, nor did at the time of the arrayment of the panel aforesaid dwell in the same hundred or wapentage: And this he is ready to verify: Wherefore he prays judgment, and that the panel aforesaid may be quashed, &c.

Challenge to the array for want of hundredors.

And the said *R. Sawyer*, who, &c. says, that the said challenge of the said *Stephen* to the array of the panel aforesaid by him the said *Stephen* above alledged is not sufficient in law to quash the array of that panel, and that he to that challenge in manner and form above alledged hath no necessity, nor is by the law of the land obliged, to answer: And this he is ready to verify: Wherefore he prays judgment, and that the array of that panel may be affirmed.

And the said *Stephen*, for that he hath above alledged a sufficient challenge to quash the array Joinder. of the panel aforesaid, which he is ready to verify, which said challenge the said *R. Sawyer* doth not deny, nor to the same in any wise answer, but doth altogether refuse to admit that avetment, prays judgment, and that the array of that panel may be quashed: And upon this The array the challenge aforesaid of the said *Stephen* to the array of the panel aforesaid being seen, and by quashed, and the justices here fully understood, it seems to the said justices here, that the array of that panel a Venire de no- in manner and form aforesaid arrayed and returned is insufficient, and of no force and effect as awarded. in law: Therefore it is considered, that the said panel be quashed and held as void: Therefore the sheriff is commanded, that he cause to come anew here in the Octave of St. Hillary 12, &c.

Ec. to recognize in form aforesaid: On which day here comes as well the said *R. Sawyer*, who, *Ec.* in his proper person, as the said *Stephen* by his attorney aforesaid: And the said sheriff hath not returned the writ, therefore the sheriff is as before commanded, that he cause to come here from the day of *Easter* in 15 days 12, *Ec.* to recognize in form aforesaid: On which day here comes as well the said *Robert Sawyer*, who, *Ec.* in his proper person, as the said *Stephen* by his attorney aforesaid: And the sheriff hath not returned the writ, therefore the sheriff is as before commanded, that he cause to come here from the day of the Holy *Trinity* in three weeks 12, *Ec.* to recognize in form aforesaid, *Ec.*

The jurata. *York*, to wit. **T**HE jury between the Lord the King, plaintiff, and *Stephen Sowton*, clerk, in a plea of *Quare impedit* is respited here until from the day of *St. Michael* in three weeks, unless the justices of the Lord the King, assigned to take assises in the county aforesaid, by the form of the statute, *Ec.* shall first come on *Tuesday* 25th day of *July* at the castle of *York* in the county aforesaid for want of jurors, because none come; therefore let the sheriff have the bodies, *Ec.* And be it known, that the justices have here in court this same term delivered the writ thereof to the under-sheriff of the county aforesaid in form of law to be executed: Afterwards the day and place within mentioned, before *Thomas Jones*, Knt. one of the justices of the Lord the King, assigned to hold pleas before the King himself, and *Edward Atkyns*, Knt. one of the barons of the Exchequer of the said Lord the King, justices of the same Lord the King, assigned to take assises in the county of *York*, by the form of the statute, *Ec.* comes as well the within named *Robert Sawyer*, Knt. attorney general in his proper person, who for the same Lord the King in this behalf prosecutes, as the said *Stephen Sowton* by his attorney above named;

The postea. and upon this publick proclamation being made here in court, *Ec.* and the jurors of the jury, whereof mention is within made, being called, some of them, to wit, *J. S. W. J. H. B. J. O. R. P. G. C. P. P. J. R. R. H.* and *E. F.* come, and on the jury aforesaid are sworn: And because the rest of the jurors of that jury have not appeared, therefore others from the by-standers, by the sheriff of the county aforesaid hereto elected, at the request of the said *Robert Sawyer*, who, *Ec.* and by the command of the justices aforesaid, are added anew, whose names are impanelled and filed according to the form of the statute in such case lately made and provided; and the jurors so added anew, to wit, *C. F.* and *R. H.* being called likewise come, who to say the truth of the premisses above mentioned, together with the other jurors aforesaid first impanelled and sworn, being elected, tried and sworn, say on their oath, that it was simoniacally and corruptly agreed between the said *Stephen* and the before named *Anne Stephens*, the church above mentioned being vacant, as by the declaration above mentioned for the said Lord the King is above supposed, and as the said attorney general for the same Lord the King above in replying hath alledged: And the same attorney general for the said Lord the King, according to the form of the statute, *Ec.* at this same assises prays judgment of and upon the verdict aforesaid to be given for the said Lord the King, and the writ of the said Lord the King to be directed to the archbishop to remove the said *Stephen* from the church aforesaid, and to admit a proper person to the same church, on the presentation of the said Lord the King: Therefore it is considered by the same justices at the assises aforesaid, that the said Lord the King do recover against the said *Stephen* his presentation to the church aforesaid, and have a writ to the said archbishop, that notwithstanding the claim of the said *Stephen*, altho' the said *Stephen* is admitted, instituted and inducted into the said church, he remove the said *Stephen* from that church, and without delay admit a proper person to the same church on the presentation of the said Lord the King: And the said *Stephen* in mercy, *Ec.*

Proclamation.

Tales.

Verdict.

Judgment for the King at the assises.

35 H. 8. c. 6.
3 G. 2. c. 25.

Repleviti

Replevin.

Green and Alchorne.

Suffex, to wit.

BE it remember'd that *Matthew Green* the elder, otherwise, to wit, at *New prof. for* the county court of *Suffex* held at *Lewes* for the county aforesaid, on not pleading the 14th day of *May* in the 12th year of the reign of our Lady *Anne*, is bar to the avowry. by the grace of God of *Great Britain, &c.* before *Samuel Watts* and *Stephen Waller*, suitors of the same court, complained of *William Alchorne*, Gent. in a plea of taking and unjustly detaining of the cattle of him the said *Matthew*, to wit, 8 ewes and six lambs; which said plea, by virtue of the writ of the said Lady the Queen of *Recordari facias*, returnable from the day of *St. Michael* in three weeks in this same term wheresoever, &c. was brought here at *Westminster* from the day of *St. Michael* in the said three weeks, at the petition of the said *William*: On which day at *Westminster* aforesaid comes as well the said *Matthew* by *John Mitchell* his attorney, as the said *William* by *John Allen* his attorney; and the same *Matthew* by his attorney aforesaid complains, that the said *William* on the 9th day of *April* in the 12th year of the reign of the Lady *Anne*, now Queen of *Great Britain, &c.* at *Chalvrington* in the county aforesaid, in a certain place there called the *Croft*, took the cattle, to wit, eight ewes and six lambs of him the said *Matthew*, and them unjustly detained, against surety and pledges, &c. until, &c. Whereby the said *Matthew* says that he is prejudiced, and hath damage to the value of 10*l.* And therefore he produces the suit, &c.

And the said *William* by his attorney aforesaid defends the force and injury when, &c. and prays leave to imparl thereto before the Lady the Queen until on the Octave of *St. Hillary* wheresoever, &c. and he hath, &c. The same day is given as well to the said *Matthew* as to the said *William*, &c. On which day before the said Lady the Queen at *Westminster* comes as well the said *Matthew* as the said *William* by their attornies aforesaid; and hereupon the said *William* farther prays leave to imparl thereto before the said Lady the Queen until from the day of *Easter* in 15 days wheresoever, &c. and he hath, &c. The same day is given as well to the said *Matthew* as to the said *William*, &c. On which day before the said Lady the Queen at *Westminster* comes as well the said *Matthew* as the said *William* by their attornies aforesaid; and upon this the said *William* by his attorney aforesaid says, that he took the cattle at *Ripe*, otherwise *Ecklington*, in the county aforesaid; without that, that he took the cattle aforesaid at *Chalvrington* in the county aforesaid, as the said *Matthew Green* by his declaration aforesaid hath above supposed: And this he is ready to verify: Wherefore he prays judgment of the writ aforesaid, and that the said writ and declaration may be quashed, &c. and to have a return of the cattle aforesaid, the same Suggestion to *William*, as bailiff of *Robert Rains*, well acknowledges the taking of the cattle aforesaid at have a return. *Ripe*, otherwise *Ecklington*, in the county aforesaid, in a certain place called the *Cony Earths*; and justly, &c. because he says, that the same place called the *Cony Earths* contains, and at the said time when, &c. did contain in itself five acres with the appurtenances in the said parish of *Ripe*, otherwise *Ecklington*, of which said five acres of land with the appurtenances the same *R. Rains* before the said time when, &c. was seised in his demesne as of fee, &c. and being so thereof seised, before the said time when, &c. to wit, on the 18th day of *March* in the 11th year of the reign of the Lady *Anne*, now Queen of *Great Britain, &c.* at the parish of *Selmiston* in the county aforesaid, the said *Robert Rains* demised to one *Matthew Green* the younger the said five acres with the appurtenances, by the name of all those two pieces or parcels of pasture called the *Cony Earths* with the appurtenances lying and being in *Ripe*, otherwise *Ecklington*, aforesaid; To have and to hold the same five

five acres of land with the appurtenances whereof, &c. to the said *M. Green* the younger, from the feast of the Annunciation of the Blessed Virgin *Mary* then next ensuing until the end and term of one whole year, and so from year to year as long as both parties should please; Yielding and paying therefore the yearly rent or sum of 50 s. of lawful money of Great Britain at the two most usual feasts or terms in the year, to wit, at the feast of St. Michael the Archangel, and the Annunciation of the Blessed Virgin *Mary*, by even and equal portions: By virtue of which demise, the same *M. Green* the younger afterwards, and before the said time when, &c. to wit, on the 26th day of March in the year last aforesaid, into the said five acres of land with the appurtenances whereof, &c. entred, and was thereof possessed; and he the said *M. Green* the younger being so thereof possessed, and the said *Robert* being seised of the reversion of the same five acres of land with the appurtenances in his demesne as of fee, and because 50 s. of the rent aforesaid for one year ended at the feast of the Annunciation of the Blessed Virgin *Mary* in the 12th year of the reign of the Lady *Anne*, now Queen of Great Britain, &c. to the same *Robert* after that feast, and the said time when, &c. were in arrear and unpaid, the same *William*, as bailiff of the said *Robert*, well acknowledges the taking of the cattle aforesaid in the said place in which, &c. as in parcel of the tenements aforesaid with the appurtenances whereof, &c. to the same *M. Green* the younger in form aforesaid demised, and justly, &c. for the said 50 s. of the rent aforesaid to the same *Robert* in form aforesaid being in arrear, &c. And this he is ready to verify: Wherefore he prays judgment, and a return of the cattle aforesaid, together with his damages, costs and charges in this behalf sustained, according to the form of the statute in such case made and provided, to be adjudged to him, &c.

21 H. 8. c. 19.

And upon this the said *Matthew* prays leave of the court of the said Lady the Queen now here until from the day of St. Michael in three weeks wheresoever, &c. to plead in bar to the cognisance aforesaid; and he hath, &c. The same day is given as well to the said *Matthew* as to the said *William*, &c. Before which day the said Lady the Queen departed this life, and the Lord *George* the now King succeeded, and took upon himself the government of this kingdom: On which said return from the day of St. Michael in three weeks before the said Lord the King at Westminster comes as well the said *Matthew* as the said *William* by their attornies aforesaid: And the said *Matthew* prays farther leave of the court of the said Lord the King now here until on the Octave of St. Hillary wheresoever, &c. to plead in bar to the cognisance aforesaid; and he hath, &c. The same day is given as well to the said *Matthew* as to the said *William*, &c. At which said return on the Octave of St. Hillary before the said Lord the King at Westminster comes as well the said *Matthew* as the said *William* by their attornies aforesaid: And the said *Matthew* farther prays leave of the court of the said Lord the King now here until on the morrow of the Holy Trinity wheresoever, &c. to plead in bar to the cognisance aforesaid; and he hath, &c. The same day is given as well to the said *Matthew* as to the said *William*, &c. whereupon the said *M.* being solemnly called doth not come, nor farther prosecute his writ aforesaid: Therefore it is considered, that the said *M.* take nothing by his writ aforesaid, but be in mercy for his false claim therein, and that the said *W.* do go thereof without day, &c. And hereupon the said *W.* according to the form of the statute in such case lately made and provided, prays the writ of the Lord the King now here to be directed to the sheriff of the county aforesaid, to inquire of the arrears of the rent aforesaid, and of the value of the goods and chattels aforesaid above specified: And to him it is granted, &c. Therefore the sheriff of the county aforesaid is commanded, that according to the form of the statute aforesaid he diligently inquire by the oath of 12 good and lawful men of his county, how much of the yearly rent aforesaid at the said time of the taking and distress of the goods and chattels aforesaid was in arrear and unpaid, and how much the goods and chattels aforesaid so as aforesaid taken and distrained were worth, according to the value of the same: And the inquisition which, &c. let the sheriff certify here from the day of St. Michael in three weeks wheresoever, &c. under the seal, &c. and the seals, &c. On which day here comes the said *W.* by his attorney aforesaid; and the sheriff, to wit, J. S. Bart. hath returned here a certain inquisition taken before him at Eastgrinstead in the county aforesaid on the fifth day of August last past, whereby it is found that at the said time of the taking of the goods and chattels aforesaid, 50 s. of the yearly rent aforesaid in the cognisance mentioned to be due to the said *Robert* were in arrear and unpaid; and that the goods and chattels aforesaid, so as aforesaid taken and distrained, according to the true value of the same, were worth 50 s. Therefore it is considered, that the said *W.* do recover against the said *Matthew* the said 50 s. of the rent aforesaid, being by the inquisition aforesaid in form aforesaid found, and his damages by reason of the premises to 9 l. by the court of the Lord the King now here to the same *William* at his request for his costs and charges by him in this behalf sustained

Writ of inquiry of the arrears and value of the goods.

17 C. 2. c. 7.

The return.

sustained, according to the form of the statute thereof lately made and provided, adjudged, which said value, costs and charges aforesaid, in the whole amount to 11 l. 10 s. &c.

Walker against Towersey and others.

M. 9 W. 3. Roll 48.

Midd^x, to wit. **J**OHN Towersey, Robert Wheeler and William Stubbins, were summoned to Prast. Reg. answer to Thomas Walker in a plea, why they took a silver porringer of the said Thomas and unjustly detained it, against surety and pledges until, &c. And whereon the same Thomas by J. L. his attorney complains that the said John, Robert and William, on the first day of May in the 9th year of the reign of the Lord William the Third, now King of England, &c. in the Charter-house in the county of Middlesex aforesaid, in a certain place there called the Dwelling-house of him the said Thomas, took the said porringer of him the said Thomas and unjustly detained it, against surety and pledges until, &c. whereby the same Thomas says that he is prejudiced, and hath damage to the value of 30 l. And therefore he produces the suit, &c.

And the said John, Robert and William, by R. H. their attorney come and defend the force and injury when, &c. and well acknowledge the taking of the porringer aforesaid in the said place in which, &c. and justly, &c. because they say, that at the said time when, &c. the same John and Robert being overseers of the poor of the parish of St. Sepulchre in the county of Middlesex, by virtue of a certain warrant under the hands and seals of William Withers, Esq; and Thomas Smith, Esq; then two of the justices of the Lord the now King, assigned to preserve the peace in the county aforesaid (*quorum unus*) to the warden of the church and the overseers of the poor of the same parish, or any of them, directed, at the said place in which, &c. demanded of the said T. Walker to pay them 10 s. 6 d. of lawful money upon him duly assessed towards the relief of the poor of the parish aforesaid, by the authority and according to the tenor, purport and effect, of a certain statute made and provided in a Parliament of the Lady Elizabeth, late Queen of England, &c. held at Westminster in the county of Middlesex in the 43d year of her reign; and because the same Thomas then and there refused to pay the said 10 s. 6 d. to them the said John and Robert, they the same John and Robert, as overseers of the poor aforesaid, and the said William at their request and in their aid, for the preservation of the peace of the said Lord the King, (the same William being then a constable within the parish aforesaid) by virtue of the statute and warrant aforesaid well acknowledge the taking of the porringer aforesaid, the said time when, &c. in the said place in which, &c. in the name of a distress for the said 10 s. 6 d. upon him the said T. Walker as aforesaid assessed towards the relief of the poor of the parish aforesaid, then being in arrear and unpaid, and justly, &c. And this they are ready to verify: Wherefore they pray judgment, and a return of the porringer aforesaid, to be adjudged to them, &c.

And the said Thomas says, that the said John, Robert and William, by the reason before alleged, the taking of the porringer aforesaid of him the said Thomas in the said place in which, &c. ought not to acknowledge just, because he says, that the said John, Robert and William, the day and year aforesaid in the declaration aforesaid mentioned, of their own wrong, without such cause by them in their cognisance aforesaid above mentioned, the porringer aforesaid of him the said Thomas in the said place in which, &c. took and unjustly detained, against surety and pledges, &c. in manner and form as the said Thomas above against them complains: And this he prays may be inquired of by the country: And the said John, Robert and William likewise, &c. Therefore, &c.

Jacobson and another against Lee.

Kent, to wit. **B**E it remember'd, that Theodore Jacobson and James Jacobson, otherwise in the court of the Sheriff of the county of Kent, held at Penenden in the same county, complained against Walter Lee in a plea of taking and unjustly detaining of the goods and chattels of them the said Theodore and James, and they found pledges to prosecute, and also to return those goods and chattels, if a return thereof should be adjudged, to wit, J. Jacobson and T. Clayton; which said plea, at the petition of the said Walter, by virtue of the writ of the Lord the King of *recordari facias*, was brought before the Lady the Queen at Westminster on the morrow of the Ascension of the Lord last past, and the proceedings therein being continued until this day, to wit, on the morrow of the Holy Trinity in this same term: Now on this day before the Lady the Queen at Westminster come as well the said Theodore and James by T. P. their attorney, as the said Walter Lee by J. W. his attorney; and upon this the same Theodore and James complain of the said Walter in the said plea, to wit, that the said Walter 20th day of February in the 4th year of the reign of

of the Lady *Anne*, now Queen of *England*, &c. at the parish of *Warden* in the county aforesaid, in a certain place there called the *Sea-shore*, took the goods and chattels of them the said *Theodore* and *James*, to wit, 580 bars of iron, and unjustly detained them, against surety and pledges, until, &c. whereby they say they are prejudiced, and have damage to the value of 450*l.* And therefore they produce the suit, &c.

Avowry for
salvage.

And the said *Walter* by *J. W.* his attorney comes and defends the force and injury when, &c. and well avows the taking of the goods and chattels in the declaration aforesaid above mentioned in the said place in which, &c. and the detention thereof, &c. and justly, &c. because he says, that the goods and chattels aforesaid, together with certain other goods and chattels before the said time when, &c. to wit, 15th day of *November* in the 4th year of the reign of the Lady *Anne*, now Queen of *England*, &c. at *Gottenburgh* in the kingdom of *Sweden* in parts beyond the seas were loaded in and upon a certain ship called the *Corn Drogger* of *Gottenburgh* aforesaid in the kingdom of *Sweden* aforesaid, then floating in and upon the high sea near the isle of *Schippey* in the county of *Kent* aforesaid; and that the said ship so as aforesaid there floating, afterwards, to wit, the same day and year a great storm there arose, and the said ship on the shore of the said isle, to wit, at the parish of *Warden* in the county aforesaid so violently drove, that the same ship, and likewise all the said goods and chattels in the same as aforesaid then loaded, and also all the men and persons in the same ship then and there being were then and there near drowned, and in great danger of being intirely lost, so that the same men, and all the other persons in the same ship, who then and there had, and ought to have, the care of the said ship, or of the goods and chattels aforesaid, to preserve themselves, the said ship, together with all the goods and chattels aforesaid then and there in the same, deserted and left: And the same *William* farther says, that afterwards, to wit, the same day and year, certain persons unknown in the night entered into the said ship, and certain goods and chattels, parcel of the other goods and chattels above mentioned, then and there stole, and feloniously took and carried away; of which the said *Walter* afterwards, to wit, 28th day of *November* aforesaid having notice at the parish aforesaid, and being then ignorant to whom the goods and chattels aforesaid did then belong, and observing that no body did then and there take care to preserve them, and the said ship being in danger of being broke in pieces and lost, to preserve the goods and chattels aforesaid in the declaration aforesaid above mentioned, lest they should be feloniously taken away or lost, the same goods and chattels out of the ship aforesaid into a certain house at the isle of *Schippey* aforesaid, with great damage, labour and pains, to the said *Walter* and his servants, and at a great expence by him the said *Walter* then and there on that account necessarily bestowed, caused to be removed, and them there safely and securely caused to be kept until, &c. And the same *Walter* in fact says, that for the said labour, pains and expence, he the said *Walter* then and there reasonably deserved to have the sum of 150*l.* of lawful money of *England*; and that afterwards, to wit, on the first day of *December* in the fourth year aforesaid, at the parish aforesaid, the same *Walter* then first knowing that the said goods and chattels belonged to the same *Theodore* and *James*, gave notice to the said *T.* and *J.* of all the premises, and then and there required the said *T.* and *J.* to pay him the said *Walter* the said sum of 150*l.* for the labour, pains and expence aforesaid; and then and there offered the same *T.* and *J.* on the payment thereof to deliver to the said *T.* and *J.* all the goods and chattels aforesaid in the declaration aforesaid mentioned; but the same *T.* and *J.* to pay the same *Walter* the said sum of 150*l.* or any part thereof, then and there absolutely refused, and yet do refuse, altho' to do it the same *T.* and *J.* often afterwards by the said *Walter* have been required; wherefore the same *Walter* took as aforesaid and detained the same goods and chattels until, &c. as he well might: And this he is ready to verify: Wherefore he prays judgment, and a return of the goods and chattels aforesaid, together with his damages, costs and charges, to be adjudged to him, &c.

De injuria
sua propria.

And the said *T.* and *J.* say, that the said *Walter*, for the reasons before alledged, the taking of the goods and chattels aforesaid in the said place in which, &c. ought not to avow just, because they say, that the said *Walter* 20th day of *February* in the 4th year of the reign of the Lady Queen *Anne* aforesaid in the declaration of them the said *T.* and *J.* aforesaid above specified, of his own wrong, and without any such cause by him the said *Walter* in his avowry aforesaid above alledged, in the said place in which, &c. took the goods and chattels aforesaid of them the said *T.* and *J.* in the declaration of them the said *T.* and *J.* above specified, and them unjustly detained, against surety and pledges until, &c. in manner and form as the said *T.* and *J.* in their declaration aforesaid against him complain: And this they pray may be inquired of by the country: And the said *Walter* likewise, &c. Therefore the sheriff is commanded, that he cause to come before the Lady the Queen from the day of *St. Michael* in three weeks wheresoever, &c. 12, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. The same day is given to the parties aforesaid, &c. Before which day, to wit, on the 17th day of *July* in the fifth year of the reign of the said Lady the now Queen the said *Theodore* died, and the said *James* survived him: And now at this day before the said Lady the Queen at *Westminster* comes the said *James*

Verdict awarded.

Death of one
of the plain-
tiffs.

James and Walter by their attornies aforesaid, and the sheriff aforesaid hath not returned the said writ thereof, nor done any thing therein: Therefore as before the sheriff of the county aforesaid is commanded, that he cause to come before the said Lady the Queen in the Octave of *St. Hillary* wheresoever, &c. 12, &c. by whom, &c. The same day is given to the parties aforesaid, &c.

Crosse against Bilson.

North'ton, to wit. *JOHN Bilson* was summoned to answer to *Samuel Crosse* in a plea, why he took a mare of him the said *Samuel* and unjustly detained it, against surety and pledges, &c. And whereon the same *Samuel* by *W. L.* his attorney complains, that the said *John* on the first day of *October* in the 12th year of the reign of the Lord *William* the Third, late King of *England*, &c. at *Hardingston* in the county aforesaid, in a certain place there called the *King's highway*, a mare of him the said *Samuel* took and unjustly detained it, against surety and pledges, until, &c. whereby the same *Samuel* says that he is prejudiced, and hath damage to the value of 10*l.* And therefore he produces the suit, &c.

And the said *John Bilson* by *J. B.* his attorney comes and defends the force and injury when, &c. and as bailiff of the most noble *William Lord Leimpster* well acknowledges the taking of the mare aforesaid the said time when, &c. in a certain place called the *Queen's highway*, and justly, &c. because he says, that the said place contains, and the said time when, &c. did contain in itself, half a rod of land with the appurtenances in *Hardingston* aforesaid; which said half rod of land long before and the said time when, &c. was parcel of a certain antient messuage in *Hardingston* aforesaid; which said messuage long before, and the said time when, &c. was the soil and freehold of the said *Lord Leimpster*; and because the mare aforesaid the said time when, &c. was in the said half rod of land in which, &c. doing damage there, the said *John*, as bailiff of the said *William Lord Leimpster*, well acknowledges the taking of the mare aforesaid in the place in which, &c. and justly, &c. doing damage there, &c. without that, that the said *John* took the mare aforesaid in a certain place called the *King's highway*, as the said *Samuel* against him hath declared: And this he is ready to verify: Wherefore he prays judgment, and a return of the mare aforesaid, to be adjudged to him, &c.

And the said *Samuel* says, that the said *John Bilson*, as bailiff of the most noble *William Lord Leimpster*, the taking of the mare aforesaid ought not to acknowledge just, because he says, that he the said *John Bilson* the said time when, &c. took the mare aforesaid in the said place then called the *King's highway*, in manner and form as the said *Samuel* above by declaring hath alledged: And this he prays may be inquired of by the country.

And the said *John* says, that he to the plea of the said *Samuel* above in replying pleaded hath no necessity, nor is by the law of the land obliged, in any manner to answer, because he says, that the same plea is not sufficient in law to maintain his declaration aforesaid: And this he is ready to verify: Wherefore for want of a sufficient replication in this behalf the same *John* as before prays judgment, and that the declaration aforesaid may be quashed.

And the said *Samuel*, for that he hath above alledged sufficient matter in law for him the said *Samuel* to maintain his action and declaration aforesaid, which he is ready to verify, which said matter the said *John* doth not deny, nor to the same in any wise answer, but that averment hath altogether refused to admit, prays judgment, and his damages by reason of the taking and unjust detention of the mare aforesaid, to be adjudged to him, &c. And because the justices here will advise themselves of and upon the premisses before they give judgment thereon, day is given to the parties aforesaid here until from the day of *St. Michael* in three weeks to hear their judgment thereon, because the same justices here there- of not yet, &c. On which day here comes as well the said *Samuel* as the said *John* by their attornies aforesaid; and hereupon the premisses being seen, and by the justices here more fully understood, it seems to the same justices here, that the plea of the said *Samuel* above in replying pleaded is sufficient in law to maintain his declaration aforesaid, as the said *Samuel* hath above alledged; wherefore the said *Samuel* ought to recover his damages by reason of the premisses against the said *John*: But because it is unknown what damages the said *Samuel* hath sustained by reason of the premisses, the sheriff is commanded, that by the oath of 12 good and lawful men of the county aforesaid he diligently inquire what damages the said *Samuel* hath sustained, as well by reason of the premisses, as for his costs and charges by him about his suit in this behalf expended; and the inquisition which he shall thereof make certify here on the Octave of *St. Hillary* under the seal, &c. and the seals, &c. On which day here comes the said *Samuel* by his attorney aforesaid; and the sheriff, to wit, *Cesar Child*, Bart. hath now returned here a certain inquisition taken before him at the town of *North'ton* in the county aforesaid on the 19th day of *January* last past by the oath of twelve, &c. whereby it is found that the said *Samuel* hath sustained damages by reason of the premisses, besides his costs and charges by him about his suit in

For taking a mare in the highway.
Salk. 3.
Pract. Reg. 157.

Cognizance for damage feasant.

Plea in maintenance of the declaration.

Demurrer.

Sid. 189.

190.

Ven. 135.

136.

Cr. El. 202.

Judgment for the plaintiff.

Inquiry a.

warded.

- Final judgment. in this behalf expended, to 80*s.* and for those costs and charges to 2*d.* Therefore it is considered, that the said *Samuel* do recover against the said *John* his damages aforesaid to 80*s.* and 2*d.* by the inquisition aforesaid in form aforesaid found, and also 12*l.* 17*s.* 4*d.* to the said *Samuel* at his request for his costs and charges aforesaid, by the court here of increase adjudged; which said damages in the whole amount to 16*l.* 17*s.* 6*d.* And the said *John* in mercy, &c.
- General errors assigned. Afterwards, to wit, on day next after In this same term, before the Lady the Queen at *Westminster* comes the said *John* by *A. M.* his attorney and says, that in the record and proceedings aforesaid, and likewise in the rendition of the judgment aforesaid, there is manifest error, in this, to wit, that by the record aforesaid it appears that the judgment aforesaid in form aforesaid given, was given for the said *Samuel Crosse* against him the said *John Bilson*, when by the law of the land of this kingdom of *England* judgment in the plea aforesaid ought to have been given for the said *John* against the said *Samuel*: There is error also in this, to wit, that by the record aforesaid it appears that the said *John* was summoned to answer to the said *Samuel* in the plea aforesaid, yet no original writ between the parties aforesaid in the plea aforesaid is filed of record, nor remains of record in the said court of the Lady the Queen of the Bench; therefore in that there is manifest error: There is error also in this, to wit, that by the record aforesaid it appears that the said *Samuel* in the said court of the Lady the said Queen of the Bench came and appeared by *W. L.* his attorney, yet the said *W. L.* had no warrant of attorney of record by writ of the now Lady the Queen, nor without writ, to warrant his appearance for the same *Samuel* in the plea aforesaid: There is error also in this, to wit, that by the record aforesaid it appears that the said *John* in the said court of the said Lady the now Queen of the Bench appeared by *William Marriot* his attorney; nevertheless *W. M.* had no warrant of attorney of record by writ of the Lady the Queen, nor without writ, to warrant his appearance for the said *John* in the plea aforesaid: And the same *John* prays several writs of the Lady the Queen, to wit, one to the chief justice of the said Lady the Queen of the Bench, and another writ to the *custos brevium* of the said Lady the Queen of the Bench aforesaid to be directed, to certify the said Lady the now Queen more fully the truth thereof: And to him they are granted, &c. Whereupon *Tuesday* next after 15 days of the Holy Trinity is given by the court of the said Lady the Queen now here, to return to the court of the said Lady the Queen, before the Queen herself at *Westminster*, the said several writs of *certiorari* above prayed: The same day is given to the said *Samuel* there, &c. And the said chief justice of the Bench aforesaid, and the said *custos brevium* of the said Lady the now Queen, on that day have not, nor hath either of them, returned the several writs aforesaid, neither have they, or either of them, done any thing therein: And hereupon the said *Samuel* freely here into court comes and says, that there is no error either in the record and proceedings aforesaid, or in the rendition of the judgment aforesaid; and prays that the court of the said Lady the Queen now here may proceed to the examination as well of the record and proceedings aforesaid, as of the matters aforesaid above for error assigned, and that the judgment aforesaid may be in all things affirmed: But because the court of the said Lady the Queen now here are not yet advised to give their judgment of and upon the premisses, day therefore is given to the parties aforesaid before the Lady the Queen until in a month of *St. Michael* wheresoever, &c. to hear their judgment thereon, because the court of the said Lady the Queen now here thereof not yet, &c. On which day before the Lady the Queen at *Westminster* come the parties aforesaid by their attorneys aforesaid; whereupon as well the record and proceedings aforesaid, and the judgment on the same given, as the said causes and matters above for error assigned and alledged, being seen, and by the court of the said Lady the Queen now here more fully understood and diligently examined, because it seems to the court of the said Lady the Queen here, that the judgment aforesaid is in nothing vitious or defective, and that there is no error in that record; It is considered, that the judgment aforesaid be in all things affirmed, and remain in its full force and effect, the said causes above for error assigned in any wise notwithstanding, &c. And it is farther considered by the same court, that the said *Samuel* do recover against the said *John* 12*l.* to the same *Samuel* by the court of the said Lady the Queen now here by his assent adjudged, according to the form of the statute thereof lately made and provided, for his costs, charges and damages, which he hath sustained by reason of the delay of execution of the judgment aforesaid, on pretence of prosecuting the said writ of the Lady the Queen to correct error of and upon the premisses; and that the same *Samuel* may have thereof his execution, &c.
- 3 H. 7. c. 10.

Butcher and Porter.

England, to wit. **T**HE Lord and Lady the King and Queen have sent to their trusty Error on a
 and beloved the mayor, bailiffs and under-steward, of their bo-judgment in
 rough of *New Windsor*, and every of them, their writ close in these words, to wit, *William* the borough
 and *Mary* by the grace of God, &c. To the mayor, bailiffs and under-steward, of our court of
 borough of *New Windsor*, and every of them, greeting: Whereas in the record and pro-
 ceedings, and also in the rendition of the judgment of a plea which was before you in our
 court of the borough aforesaid, without our writ, between *John Butcher* and *Thomas Porter*
 concerning the goods of him the said *John* taken and unjustly detained, as it is said, a ma-
 nifest error hath happened, to the great damage of him the said *John*, as by his complaint
 we have understood: We willing the error, if any hath been, should be duly corrected, and
 full and speedy justice done to the parties aforesaid in this behalf, command you, that if
 judgment be therein given, then the record and proceedings aforesaid, with all things
 touching them, under your seal you distinctly and openly send, and this writ, so that
 we may have them on the Octave of *St. Hillary* wheresoever we shall then be in *England*,
 that the record and proceedings aforesaid being inspected, we may farther cause to be done
 therein to correct that error, what of right and according to the law and custom of our
 kingdom of *England* shall be to be done. Witness Ourselves at *Westminster* 4th day of *De-*
cember in the 2d year of our reign.

Allowed.

Skinner.

The execution of this writ appears in a certain schedule to this writ annexed.

The answer of the mayor, bailiffs and under-steward, of the borough of New Windsor in the county of Berks.

The borough of *New* **P**LEAS in the court of the Lord and Lady *William* and *Mary*, by *The placita*.
Windsor, to wit. the grace of God of *England*, *Scotland*, *France* and *Ireland* King
 and Queen, defenders of the faith, &c. of record of the borough of *New Windsor*, held in
 the *Guildball* of the borough aforesaid within the same borough on *Monday*, to wit, the 9th
 day of *June* in the 2d year of their reign, before *Thomas Buck*, Gent. mayor, *Samuel Chapman*
 and *James Joyce*, bailiffs, and *Thomas Staples*, Esq; under-steward of the borough aforesaid,
 by virtue of the letters patent of the Lord *Charles* the Second, late King of *England*, &c. Letters pa-
 under the great seal of *England* in that behalf made, &c. At this court comes *John Butcher* tent.
 in his proper person, and affirms his certain plaint against *Thomas Porter* in a plea of the plaint levied.
 taking and unjust detention of his goods and chattels, and finds pledges to prosecute that Pledges.
 plaint, to wit, *John Doe* and *Richard Roe*, and prays the process of the court aforesaid
 to him thereon to be made in the plea aforesaid: And to him it is granted, &c. Wherefore
 at the prayer of him the said *John Butcher* at, in and by this same court now here held,
John Redman, serjeant at mace of the borough aforesaid, and minister of the court aforesaid,
 is commanded, that whereas *John Butcher* to me grievously complaining hath shewn, that Process.
 one *Thomas Porter* his goods and chattels, to wit, 16 pewter plates, 14 pewter dishes, 17
 pipes of strong beer and ale, at *New Windsor*, and within the jurisdiction of the court of the
 borough aforesaid, hath taken and unjustly detained, against surety and pledges, as it is
 said; and because the said *John Butcher* hath found sufficient security as well to prosecute
 his claim as to return the goods and chattels aforesaid, if a return thereof against him in
 the same court shall be adjudged: Therefore on the behalf of the Lord and Lady the now
 King and Queen, the same serjeant at mace of the borough aforesaid, and minister of the
 court aforesaid, is commanded, that he cause to be replevied and delivered to the said *John*
Butcher the goods and chattels aforesaid, and that he summon the said *Thomas Porter* that
 he be before the mayor, bailiffs and under-steward, of the said borough at the next court
 of the said Lord and Lady the King and Queen of the borough aforesaid, at and in the
Guildball of the same borough on *Monday*, to wit, the 16th day of the said month of *June*,
 by virtue of the letters patent aforesaid to be held, to answer to the same *J. Butcher* in the
 plea aforesaid: The same day is given to the said *J. Butcher* here, &c. At which said next The return.
 court of the said Lord and Lady the King and Queen of the borough aforesaid, held on the
 said 16th day of *June* in the 2d year aforesaid, here, in and at the *Guildball* of the borough
 aforesaid, before the said *T. Buck*, mayor, *S. Chapman* and *J. Joyce*, bailiffs, and *T. Staples*,
 Esq; under-steward of the borough aforesaid, by virtue of the letters patent aforesaid, comes
 the said *J. Butcher* in his proper person, and the said serjeant at mace of the borough aforesaid,
 and minister of the court aforesaid, now here hath returned the precept aforesaid to
 him in form aforesaid directed in all things served and executed, to wit, that he, by virtue of
 the precept aforesaid to him in form aforesaid directed, had caused to be delivered to the within
 4 X named

named *J. Butcher* the goods and chattels which the said *T. Porter* had taken, and had summoned the said *T. P.* that he be at the day and place aforesaid in the writ aforesaid contained, to answer to the same *J. Butcher* in the plea aforesaid, as he was commanded; and thereupon in this same court now here held, the said *J. Butcher* puts in his place *P. C.* his attorney against the said *T. Porter* in the plea aforesaid, and the said *T. Porter* puts in his place *A. M.* his attorney against the said *J. Butcher* in the plea aforesaid; upon which at this same court now here held, the said *J. Butcher* by his attorney aforesaid prays leave to declare on his plaint aforesaid in the plea aforesaid against the said *T. Porter* here until the next court of the said Lord and Lady the King and Queen of the borough aforesaid at and in the *Guildball* of the borough aforesaid, on *Monday*, to wit, the 23d day of the same month of *June* in the second year aforesaid, before the mayor, bailiffs and under-steward, of the borough aforesaid, by virtue of the letters patent aforesaid to be held; and he hath, &c. The same day is given to the said *T. Porter* here, &c. At which said next court of the Lord and Lady the King and Queen of the borough aforesaid, on the said 23d day of *June* in the second year above said here, to wit, at and in the *Guildball* of the borough aforesaid, held before the said *T. Buck*, Gent. mayor of the borough aforesaid, *J. C.* and *J. J.* bailiffs, and *T. Staples*, Esq; under-steward of the same borough, by virtue of the letters patent aforesaid, comes as well the said *J. Butcher* as the said *T. Porter* by their attorneys aforesaid; and the said *J. Butcher* prays farther leave to declare on his plaint aforesaid in the plea aforesaid against the said *T. Porter* until the next court of the said Lord and Lady the King and Queen of the borough aforesaid here, at and in the *Guildball* of the borough aforesaid, on *Monday*, to wit, the 30th day of the then instant month of *June* in the second year above said, to be held before the mayor, bailiffs and under-steward, of the borough aforesaid, by virtue of the letters patent aforesaid; and he hath, &c. The same day is given to the said *T. Porter* here, &c. At which said next court of the said Lord and Lady the King and Queen of the borough aforesaid, on the said 30th day of the month of *June* in the second year above said here, to wit, at and in the *Guildball* of the borough aforesaid, held before the said *T. Buck*, Gent. *J. C.* and *J. J.* bailiffs, and *T. Staples*, Esq; under-steward of the borough aforesaid, by virtue of the letters patent aforesaid, comes as well the said *J. Butcher* as the said *T. Porter* by their attorneys aforesaid; and the said *J. Butcher* on his plaint aforesaid now declares against the said *T. Porter* in these words, to wit, the borough of *New Windsor*, to wit, *J. Butcher* complains against *T. Porter* in a plea, why he took the goods and chattels of the said *John* and unjustly detained them, against surety and pledges, &c. And whereon the same *John* by *P. C.* his attorney complains, for this, to wit, that the said *Thomas* on the twenty-second day of _____ in the second year of the reign of the Lord and Lady *William* and *Mary* now King and Queen of *England*, &c. at *New Windsor*, in a certain place there, called the house of *Richard Sambee*, within the jurisdiction of this court, took the goods and chattels of the said *John*, to wit, 16 pewter plates, 14 pewter dishes, 17 pipes of strong beer and ale, of the said *John* and unjustly detained them, against surety and pledges until, &c. whereby the same *John* says that he is prejudiced, and hath damage to the value of 50 *l.* And therefore he produces the suit, &c. And thereupon at this same court now here held the said *T. Porter* comes and defends the force and injury when, &c. and prays leave to imparl thereto here until the next court of the said Lord and Lady the King and Queen of the borough aforesaid in and at the *Guildball* of the borough aforesaid on *Monday*, to wit, the 11th day of the month of *August* in the second year above said, before the mayor, bailiffs and under-steward, of the borough aforesaid, by virtue of the letters patent aforesaid to be held; and he hath, &c. The same day is given to the said *J. Butcher* here, &c. At which said next court of the said Lord and Lady the King and Queen of the borough aforesaid, on the said 11th day of *August* in the second year above said here, to wit, at and in the *Guildball* of the borough aforesaid, held before the said *T. Buck*, Gent. mayor, *J. C.* and *J. J.* bailiffs, and *T. Staples*, Esq; under-steward of the borough aforesaid, by virtue of the letters patent aforesaid, comes as well the said *J. Butcher* as the said *T. Porter* by their attorneys aforesaid; and the said *T. Porter* then and there in this same court of the said Lord and Lady the King and Queen farther prays leave to imparl thereto until the next court of the said Lord and Lady the King and Queen of the borough aforesaid, at and in the *Guildball* of the same borough on *Monday*, to wit, 18th day of the same month of *August* in the 2d year above said, before the mayor, bailiffs and under-steward, of the borough aforesaid, by virtue of the letters patent aforesaid to be held; and he hath, &c. The same day is given to the said *J. Butcher* here, &c. At which said next court of the said Lord and Lady the King and Queen of the borough aforesaid, on the said 18th day of *August* in the second year above said here, to wit, at and in the *Guildball* of the borough aforesaid, held before the said *T. B.* Gent. mayor, *J. C.* and *J. J.* bailiffs, and *T. S.* Esq; under-steward of the borough aforesaid, by virtue of the letters patent aforesaid, comes as well the said *J. B.* as the said *T. P.* by their attorneys aforesaid: And the said *T. P.* says, that the said *J. B.* ought not to have or maintain his action aforesaid thereof against him, because he says, that at the time of the taking of the goods and chattels aforesaid supposed to be, the property

Warrants of attorney.

Leave to declare 'till the next court.

Farther leave, &c.

The declaration.

Impar lance.

Farther impar lance.

Property in a stranger. Salk. 5.

property of the goods and chattels aforesaid was in one *R. Sambee* yet living, and not in the said *J. Butcher*: And this he is ready to verify: Wherefore he prays judgment, and a return of the goods and chattels aforesaid, to be adjudged to him, &c. Whereupon at this Imparlance. same court now here held, the said *J. Butcher* prays leave to reply thereto here until the next court of the said Lord and Lady the King and Queen of the borough aforesaid in and at the Guildball of the borough aforesaid on *Monday*, to wit, the 25th day of the same month of *August* in the 2d year above said, before the mayor, bailiffs and under-steward, of the borough aforesaid, by virtue of the letters patent aforesaid to be held; and he hath, &c. The same day is given to the said *T. P.* here, &c. At which said next court of the said Lord and Lady the King and Queen of the borough aforesaid, on the said 25th day of *August* in the 2d year above said here, to wit, at and in the Guildball of the borough aforesaid, held before the said *T. Buck*, Gent. *J. C.* and *J. J.* bailiffs, and *T. Staples*, Esq; under-steward of the borough aforesaid, by virtue of the letters patent aforesaid, comes as well the said *J. Butcher* as the said *T. Porter* by their attornies aforesaid; and the said *J. Butcher* prays farther leave to Farther im- reply thereto here until the next court of the said Lord and Lady the King and Queen of parlance. the borough aforesaid, at and in the Guildball of the same borough on *Monday*, to wit, the 8th day of *September* in the 2d year of the reign of the Lord and Lady *William* and *Mary* now King and Queen of *England*, &c. before the mayor, bailiffs and under-steward, of the borough aforesaid, by virtue of the letters patent aforesaid to be held; and he hath, &c. The same day is given to the said *T. Porter* here, &c. At which said next court of the said Lord and Lady the King and Queen of the borough aforesaid, on the said *Monday*, to wit, 8th day of *September* in the 2d year above said here, to wit, at and in the Guildball of the borough aforesaid, held before the said *T. Buck*, Gent. mayor, *J. C.* and *J. J.* bailiffs, and *T. Staples*, Esq; under-steward of the borough aforesaid, by virtue of the letters patent aforesaid, comes as well the said *J. Butcher* as the said *T. Porter* by their attornies aforesaid; and the said *John Butcher* says, that the plea aforesaid by the said *T. Porter* above pleaded, and the matter in the same contained, are not sufficient in law to preclude him the said *J. Butcher* from his action aforesaid thereof against him the said *T. Porter* had, to which the same *J. Butcher* hath no necessity, nor is by the law of the land obliged, in any manner to answer: And this he is ready to verify: Wherefore for want of a sufficient answer in that behalf, the same *John Butcher* prays judgment, and his damages by reason of the trespass aforesaid, to be adjudged to him, &c. Whereupon at this same court now here held on the same 8th day of *September* Imparlance. in the 2d year above said, the said *T. Porter* prays leave to join in demurrer here until the next court of the said Lord and Lady the King and Queen of the borough aforesaid at and in the Guildball of the borough aforesaid, on *Monday*, to wit, the 6th day of *October* in the 2d year of the reign of the Lord and Lady *William* and *Mary* now King and Queen of *England*, &c. above said, before the mayor, bailiffs and under-steward, of the borough aforesaid, by virtue of the letters patent aforesaid to be held; and he hath, &c. The same day is given to the said *J. Butcher* here, &c. At which said next court of the said Lord and Lady the King and Queen of the borough aforesaid, on the said *Monday*, to wit, the 6th day of *October* in the 2d year above said here, to wit, at and in the Guildball of the borough aforesaid, held before the said *T. Buck*, Gent. mayor, *J. Chapman* and *J. Joyce*, bailiffs, and *T. Staples*, Esq; under-steward of the borough aforesaid, comes as well the said *T. Porter* as the said *J. Butcher* by their attornies aforesaid; and the said *T. Porter* prays farther leave to join in demurrer Farther im- here until the next court of the said Lord and Lady the King and Queen of the borough parlance. aforesaid at and in the Guildball of the borough aforesaid, on *Monday*, to wit, the 20th day of *October* before the mayor, bailiffs and under-steward, of the borough aforesaid, by virtue of the letters patent aforesaid to be held; and he hath, &c. The same day is given to the said *J. Butcher* here, &c. And afterwards, to wit, on the same 6th day of *October* in the 2d year above said, the said *T. Buck*, mayor of the borough aforesaid, the said *J. J.* one of the bailiffs of the borough aforesaid, and *T. Staples*, Esq; under-steward of the borough aforesaid, from their several and respective offices aforesaid were duly removed, and one *M. Brush*, Gent. was duly New officers elected and chosen into the office of mayor of the borough aforesaid, *N. Meystour* duly elected elected. and chosen into the office of one of the bailiffs, and *W. Peisly*, Esq; was duly elected and chosen into the office of under-steward of the same borough for one whole year from thence next ensuing, by virtue of the letters patent aforesaid: At which said next court of the said Lord and Lady the King and Queen of the borough aforesaid, on the said *Monday*, to wit, the 20th day of *October* in the 2d year above said here, to wit, at and in the Guildball of the borough aforesaid, held before the said *M. Brush*, Gent. mayor, *J. C.* and *N. Meystour*, bailiffs, and *W. Peisly*, Esq; under-steward of the borough aforesaid, by virtue of the letters patent aforesaid, comes as well the said *Thomas Porter* as the said *John Butcher* by their attornies aforesaid; and the Farther im- said *Thomas Porter* prays farther leave to join in demurrer here until the next court of the parlance. said Lord and Lady the King and Queen of the borough aforesaid at and in the Guildball of the borough aforesaid, on *Monday*, to wit, the 3d day of *November* in the 2d year of the reign of the said Lord and Lady the now King and Queen, &c. above said, before the mayor, bailiffs and under-steward, of the borough aforesaid, by virtue of the letters patent aforesaid to be held; and he hath, &c. The same day is given to the said *J. B.* here, &c. At

Joinder in demurrer.

Continuance.

Judgment.

At which said next court of the said Lord and Lady the King and Queen of the borough aforesaid, on the said *Monday*, to wit, the 3d day of *November* in the 2d year aforesaid here, to wit, at and in the *Guildball* of the borough aforesaid, held before the said *Moses Brush*, Gent: mayor, *J. C.* and *N. M.* bailiffs, and *W. Peisly*, Esq; under-steward of the borough aforesaid, by virtue of the letters patent aforesaid, comes as well the said *T. Porter* as the said *J. Butcher* by their attornies aforesaid; and the said *T. Porter* says, that the plea aforesaid by the same *T. Porter* pleaded, and the matter in the same contained, are good and sufficient in law to preclude him the said *J. Butcher* from his action aforesaid thereof against him the said *T. Porter* had; and because the said *J. Butcher* doth not answer to that plea, nor hitherto in any wise deny it, the same *T. Porter* as before prays judgment, and that the said *J. Butcher* may be precluded from his action aforesaid thereof against him the said *T. Porter* had: But because the court of the said Lord and Lady the King and Queen now here are not yet advised to give their judgment of and upon the premises, day therefore is given to the parties aforesaid until the next court of the said Lord and Lady the King and Queen of the borough aforesaid at and in the *Guildball* of the borough aforesaid on *Monday*, to wit, 17th day of *November* in the 2d year aforesaid, before the mayor, bailiffs and under-steward, of the borough aforesaid, by virtue of the letters patent aforesaid to be held to hear their judgment thereon, because the same court of the Lord and Lady the King and Queen now here thereof not yet, &c. At which said next court of the said Lord and Lady the King and Queen of the borough aforesaid, on the said *Monday*, to wit, 17th day of *November* in the 2d year aforesaid here, to wit, at and in the *Guildball* of the borough aforesaid, held before the said *Moses Brush*, Gent. mayor, *J. C.* and *N. M.* bailiffs, and *W. Peisly*, Esq; under-steward of the borough aforesaid, by virtue of the letters patent aforesaid, comes as well the said *J. Butcher* as the said *T. Porter* by their attornies aforesaid: And hereupon the premises being seen, and by the court aforesaid here fully understood, it seems to the court here that the said plea by the said *T. Porter* in form aforesaid pleaded, and the matter in the same contained, are good and sufficient in law to preclude the same *J. Butcher* from his action aforesaid against the same *T. Porter* had: Therefore it is considered by the same court, that the said *J. Butcher* do take nothing by his declaration aforesaid, but that he be in mercy for his false claim thereof, and the said *T. Porter* do go thereof without day, and that he have a return of the goods and chattels aforesaid, to be detained to himself irreplicable for ever, &c.

Hubbard against Handford.

Replevin in K. B.

Midd, to wit. **R**ichard Handford was summoned to answer to Richard Hubbard in a plea, why he took the goods and chattels of him the said Richard Hubbard and unjustly detained them, against surety and pledges until, &c. And whereon the same Richard Hubbard by *J. P.* his attorney complains, that the said Richard Handford on the 7th day of *October* in the 2d year of the reign of the Lord and Lady William and Mary now King and Queen of England, &c. at the parish of *St. Margaret Westminster* in the county aforesaid, in a certain place there called *Peter-street*, took the goods and chattels following, to wit, one jack, 2 spits, 18 pewter plates, &c. (reciting several other particulars) of the said Richard Hubbard, and unjustly detained them, against surety and pledges until, &c. whereby the same Richard Hubbard says that he is prejudiced, and hath damage to the value of 20*l.* And therefore he produces the suit, &c.

Sir Robert
Marsham sei-
fed in fee of
the place
where, &c.
demised it to
the defendant
for 51 years.

And the said Richard Handford by *J. L.* his attorney comes and defends the force and injury when, &c. and well avows the taking of the goods and chattels aforesaid in the said place where, &c. and justly, &c. because he says, that the same place, where the taking of the goods and chattels aforesaid is supposed to be, contains, and at the same time when the taking of those goods and chattels is supposed to be, did contain in itself, a certain piece or parcel of land with the appurtenances in a place called *Peter-street*, otherwise *Bowling Alley*, in the parish of *St. Margaret Westminster* aforesaid in the county aforesaid; of which said piece or parcel of land with the appurtenances one Robert Marsham, Knt. before the said time when, &c. was seised in his demesne as of fee; and being so thereof seised, the said Robert before the said time when, &c. to wit, on the 16th day of *May* in the first year of the reign of the Lord and Lady the now King and Queen, at the parish of *St. Margaret Westminster* aforesaid in the county aforesaid, demised the same piece or parcel of land with the appurtenances to the said Richard Handford, to hold to the same Richard and his assigns from the feast of the Blessed Virgin Mary last then past before the date of the same demise for the term of 51 years from thence next ensuing and fully to be compleat and ended: By virtue of which said demise the said R. Handford was possessed of the same piece or parcel of land for the term aforesaid; and so being thereof possessed, the same R. Handford after-

afterwards and before the said time when, *Ec.* had erected and built the said messuage or tenement on the piece or parcel of land aforesaid, and was thereof possessed; and being so thereof possessed, he the same *Richard Handford* before the said time when, *Ec.* to wit, on the 20th day of *December* in the first year of the reign of the said Lord and Lady the now King and Queen aforesaid, demised the messuage aforesaid with the appurtenances to the said *Richard Hubbard* from the feast of the Birth of our Lord then next following for who demised the term of one whole year from thence next ensuing fully to be compleat and ended; it to the plaintiff for a year at 15 l. Yielding therefore for the same year to the said *Richard Handford*, or his assigns, the rent of 15 l. of lawful money of *England*, at the four most usual feasts in the year, to wit, the feasts of the Annunciation of the Blessed Virgin *Mary*, *St. John* the Baptist, *St. Michael* the Archangel, and the Birth of our Lord, by even and equal portions: By virtue of which said demise the said *Richard Hubbard* into the messuage aforesaid with the appurtenances entred, and was thereof possessed, and the same messuage with the appurtenances for the space of three quarters of a year occupied; and because the sum of 11 l. 5 s. of the rent aforesaid, after the demise so made for the said three quarters of a year at the feast of *St. Michael* last and for three quarters rent Handford in arrear and unpaid, the same *Richard Handford* well avows the taking of the arrear distressed goods and chattels aforesaid in the said place where, *Ec.* and justly, *Ec.* for the said 11 l. 5 s. to the same *Richard Handford* in form aforesaid being in arrear, as in the messuage aforesaid with the appurtenances to the distress of the said *Richard Handford* in form aforesaid charged and bound: And this he is ready to verify: Wherefore he prays judgment, and a return of the goods and chattels aforesaid, to be adjudged to him.

And the said *R. Hubbard* says, that the said *R. Handford* for the reason before alledged Repl^r that the ought not to avow the taking of the goods and chattels aforesaid in the said place where, rent was not *Ec.* just, because he says, that the said 11 l. 5 s. of the rent aforesaid at the said time in arrear. when, *Ec.* were not in arrear and unpaid to the said *Richard Handford*, nor was any penny thereof at the said time when, *Ec.* in arrear to the said *Richard Handford*, as the said *Richard Handford* in his avowry aforesaid hath above alledged: And this he prays may be inquired of by the country: And the said *Richard Handford* likewise, *Ec.* Therefore the sheriff is Issue. commanded, that he cause to come before the Lord and Lady the King and Queen from the day of the Holy *Trinity* in three weeks wheresoever, *Ec.* 12, *Ec.* by whom, *Ec.* and who neither, *Ec.* to recognize, *Ec.* because as well, *Ec.* The same day is given to the parties aforesaid, *Ec.* On which day before the Lord and Lady the King and Queen at *Westminster* come the parties aforesaid by their attornies aforesaid; and the sheriff hath not returned the writ, nor done any thing therein; therefore as before the sheriff is commanded, that he cause to come before the Lord and Lady the King and Queen from the day of *St. Michael* in three weeks wheresoever, *Ec.* 12, *Ec.* by whom, *Ec.* and who neither, *Ec.* to recognize, *Ec.* because as well, *Ec.* The same day is given to the parties aforesaid, *Ec.*

The Lady Digby against Barford.

Pleas before the Lord the King at Westminster of Trinity term in the 29th year of the reign of the Lord Charles the Second, now King of England, &c.

The city of *Coventry*, to wit. *Thomas Barford* late of *Wikin* in the county of the city of *The Nisi prius* *Coventry* aforesaid, yeoman, was summoned to answer to record in K.B. *Mary Lady Digby*, widow, in a plea, why he took the cattle of the said *Mary* and unjustly detained them, against surety and pledges, *Ec.* And whereon the same *Mary* by *H. R.* her attorney complains, that the said *Thomas* on the 23d day of *October* in the 28th year of the reign of the Lord *Charles* the Second, now King of *England*, *Ec.* at the city of *Coventry* in the county of the same city in the King's highway there, took the cattle of the said *Lady Mary*, to wit, 5 oxen and one heifer, and unjustly detained them, against surety and pledges until, *Ec.* whereby the same *Lady Mary* says that he is prejudiced, and hath damage to the value of 20 l. And therefore she produces the suit, *Ec.*

And the said *Thomas Barford* by *G. A.* his attorney comes and defends the force and Plea, Property injury when, *Ec.* and says, that at the time of the taking of the cattle aforesaid above in a stranger. supposed to be, the property of those cattle was in one *Rebecca Crabb*, widow, administratrix Salk. 5. of all and singular the goods and chattels, rights and credits, which belonged to *William Crabb* her late husband deceased at the time of his death; without that, that the property Traverse. of the cattle aforesaid at the said time of the taking of them was in the said *Mary Lady Digby*, as she by her writ and declaration aforesaid above thereof supposes: And this he is ready to verify: Wherefore he prays judgment of the writ and declaration aforesaid, and a return of the cattle aforesaid, to be adjudged to him, *Ec.*

Repl' and
Issue.

Ventre.

And the said *Mary Lady Digby* says, that her writ and declaration aforesaid ought not to be quashed, because she says, that the property of the cattle aforesaid at the said time of the taking of them was in the said *Mary Lady Digby* in manner and form as she by her writ and declaration aforesaid above thereof hath alledged, to wit, at the city of *Coventry* aforesaid in the county of the same city: And this she prays may be inquired of by the country: And the said *Thomas Barford* thereof likewise: Therefore the sheriffs are commanded, that they cause to come before the Lord the King from the day of the Holy *Trinity* in three weeks wheresoever, &c. 12, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. The same day is given to the parties aforesaid, &c.

The placita. Pleas before the Lord the King at Westminster of Trinity term in the 20th year of the reign of the Lord Charles the Second, now King of England, &c.

The jurata. The city of *Coventry*, to wit. **T**HE jury between *Mary Lady Digby*, widow, by her attorney, plaintiff, and *Thomas Barford* late of *Wiken* in the county of the city of *Coventry* aforesaid, yeoman, in a plea of taking and detaining of cattle is respited before the Lord the King until from the day of *St. Michael* in three weeks wheresoever, &c. unless the justices of the Lord the King, assigned to take assises in the county of the city aforesaid, shall first come on *Wednesday* the 25th day of *July* at the city of *Coventry* aforesaid in the county of the same city, by the form of the statute, &c. for want of jurors, &c. Therefore let the sheriffs have the bodies, &c. The same day is given to the parties aforesaid, &c. And be it known, that the writ of the Lord the King thereof on the 4th day of *July* in this same term before the Lord the King at *Westminster* is delivered to the under-sheriff of the county of the city of *Coventry* aforesaid, in form of law to be executed at his peril, &c.

13 E. 1. c. 30.

12 E. 2. c. 4.

14 E. 3. c. 16.

Pippin and another at the suit of Maynard.

Trin. 12 W. 3. in C. B.

Declaration in replevin for the taking of the plaintiff's cattle.

The defendants plead property in a stranger, and for a return make cognisance as bailiffs to A. and B. for damage-feasant in their freehold.

AND the said *Edward* and *Sarah* by *W. L.* their attorney come and defend the force and injury when, &c. and say, that at the time when the taking of the cattle aforesaid is supposed to be, the property of those cattle was in one *Stephen Hewes* who is now surviving and in full life, to wit, at *H.* aforesaid in the county aforesaid; without that, that the property of the cattle aforesaid at the time of the taking of them was in the said *Jonathan Maynard*, as he by his writ and declaration aforesaid above supposes: And this they are ready to verify: Wherefore they pray judgment of the writ and declaration aforesaid, and a return of the cattle aforesaid, to be adjudged to them, &c. And to have a return of the cattle aforesaid, the same *Edward* and *Sarah*, as bailiffs of *A. B.* and *C. B.* well acknowledge the taking of the cattle aforesaid in the said place where, &c. called *Hebrom*, and justly, &c. because they say, that the same place called *Hebrom* contains, and at the said time when the taking of the cattle aforesaid is supposed to be, did contain in itself 40 acres of pasture with the appurtenances in *Kingshorpe* in the county aforesaid; which said 40 acres of pasture with the appurtenances are and at the said time when, &c. were the soil and freehold of the said *A. B.* and *C. B.* And because the cattle aforesaid at the said time when, &c. were in the said place called *Hebrom* aforesaid, eating up the grass there then growing, and doing damage there, the same *Edward* and *Sarah*, as bailiffs of the said *A. B.* and *C. B.* well acknowledge the taking of the cattle aforesaid in the said place where, &c. and justly, &c. so doing damage there: Wherefore they pray judgment, and a return of the cattle aforesaid, to be adjudged to them, &c.

Repl' and issue on the property.

And the said *Jo. Maynard* says, that his writ and declaration aforesaid ought not to be quashed, because he says, that the property of the cattle aforesaid at the said time of the taking of them was in the said *Jonathan Maynard* in manner and form as he by his writ and declaration aforesaid hath above thereof alledged, to wit, at *Hebrom* aforesaid in the county aforesaid: And this he prays may be inquired of by the country: And the said *Edward* and *Sarah* likewise: Therefore the sheriff is commanded that he cause to come, &c.

Daniel

Daniel against Crogall and another.

South'ton, to wit. **T** *Thomas Crogall* late of *Sbustock* in the county aforesaid, yeoman, and *Decl'* in replevin for cattle. *William Hollier* late of *Sbustock* in the county aforesaid, yeoman, were summoned to answer to *Michael Daniel* in a plea, why they took the cattle of him the said *Michael* and unjustly detained them, against surety and pledges, &c. And whereon the same *M.* by *H. R.* his attorney complains, that the said *T.* and *W.* 21st day of *May* in the 26th year of the reign of the Lord *Charles* the Second, now King of *England*, &c. at the parish of *S.* aforesaid in the county aforesaid, in a certain place there called *Braggery Field*, took the cattle of him the said *M.* to wit, 7 ewes and 7 lambs and unjustly detained them, against surety and pledges until, &c. whereby the same *M.* says that he is prejudiced, and hath damage to the value of 20 l. And therefore he produces the suit, &c.

And the said *T.* and *W.* by *W. C.* their attorney come and defend the force and injury Avowry and when, &c. and the same *T. C.* well avows, and the said *W.* well acknowledges, as bailiff cognisance for damage-fee-justly, &c. because they say, that the same place where the taking of the cattle aforesaid is supposed to be, and at the said time when, &c. did contain in itself 2 acres of arable land, called the *Short Butts*, in the said field called *B. F.* in *S.* aforesaid; which said 2 acres of arable land with the appurtenances are and at the said time when, &c. were the soil and freehold of him the said *T. C.* and because the cattle aforesaid at the said time when, &c. were in the said 2 acres of arable land with the appurtenances eating up the grass then in the same growing, and doing damage there, the same *T. C.* well avows, and the said *W.* as bailiff of him the said *T. C.* well acknowledges the taking of the cattle aforesaid in the said place where, &c. so doing damage there, &c. And this they are ready to verify: Wherefore they pray judgment, and a return of the cattle aforesaid, together with their damages, costs and expences, by them about their suit in this behalf sustained, according to the form of the statute in such case lately made and provided, to be adjudged to them, &c.

And the said *M.* says, that the said *T. C.* ought not to avow the taking of the cattle aforesaid in the said place where, &c. just, neither ought the said *W.* to acknowledge that taking just, because he says, that well and true it is, that the said 2 acres of arable land, called the *Short Butts* in the said field called *B. F.* in *S.* aforesaid in the county aforesaid, are and at the said time when, &c. were the soil and freehold of him the said *T. C.* as the said *T.* and *W.* by their avowry and cognisance aforesaid have above thereof alledged: But the same *W.* farther says, that long before the said time of the taking of the cattle aforesaid in the said place where, &c. one *R. W.* was seised in his demesne as of fee of and in 2 acres of arable land with the appurtenances in *B. F.* in *S.* aforesaid in the county aforesaid; and that the same *R. W.* and all those whose estate the same *R. W.* then had of and in the said 2 acres of arable land from time immemorial have had, and been accustomed to have, for themselves, their farmers and tenants of the said 2 acres of arable land with the appurtenances, common of pasture in all the said field called *B. F.* (except in the said 2 acres of land) when the said field called *B. F.* lay fallow for the whole year, and until it should be re-sown with corn, and in every year when the said field was sown with corn, from the time of reaping or cutting the corn there growing 'till that field should be re-sown with corn, for a horse, mare or gelding, 10 ewes and 10 lambs, or 10 other sheep and a cow, as to the said 2 acres of arable land with the appurtenances belonging and appertaining; and the said *R. W.* being so thereof seised, afterwards and before the taking of the cattle aforesaid in the said place where, &c. to wit, on the 9th day of *April* in the 27th year of the reign of the said Lord the now King, at *S.* aforesaid in the county aforesaid, demised to the said *M.* the said 2 acres of arable land with the appurtenances in *B. F.* To have and to hold to him and his assigns from the 10th day of *April* then next following unto the full end and term of 100 years from thence next ensuing and fully to be compleat and ended: By virtue of which said demise the same *M.* into the said 2 acres of arable land with the appurtenances enter'd, and was and yet is thereof possessed: And the same *M.* farther says, that at the said time when, &c. the field aforesaid called *B. F.* lay fallow, and that he the said *M.* of the said 2 acres of arable land with the appurtenances in form aforesaid being possessed, he the said *M.* at the said time when, &c. put his cattle aforesaid, to wit, 7 ewes and 7 lambs into the said 2 acres of arable land of the said *T. C.* called the *Short Butts*, to feed on the grass there growing, and to take his common aforesaid there, as he well might, until the said *T.* and *W.* took the cattle of him the said *M.* and unjustly detained them, against surety and pledges until, &c. as the said *M.* above thereof against them complains: And this the same *M.*

M. is ready to verify: Wherefore for that the said *T.* and *W.* the taking of the cattle aforesaid in the said place where, *Ec.* above confess, the same *M.* prays judgment, and his damages by reason of the taking and unjust detention of the cattle aforesaid, to be adjudged to him, *Ec.*

Repl' confesses the seisin and the common, And the said *T.* and *W.* say, that well and true it is, that the said *R. W.* in the plea of him the said *M.* in bar to the avowry and cognisance aforesaid above pleaded named, before the said time when, *Ec.* was seised in his demesne as of fee of and in the said 2 acres of arable land with the appurtenances in *B. F.* aforesaid in *S.* aforesaid; and that well and true it is, that the said *R. W.* and all they whose estate the same *R. W.* then had of and in the said 2 acres of arable land with the appurtenances, from time immemorial have had, and been accustomed to have, for themselves, their farmers and tenants, of the said 2 acres of arable land with the appurtenances, common of pasture, in all the said field called *B. F.* (except in the said 2 acres) when the said field called *B. F.* lay fallow for all the year, and until it should be refown with corn, and in every year when that field was sown with corn from the time of the reaping or mowing of the corn there growing until that field should be refown with corn, for the said one horse, mare or gelding, 10 ewes and 10 lambs, or 10 other sheep and one cow, as to the said 2 acres of land with the appurtenances belonging and appertaining; and that well and true it is, that the said *R. W.* being so seised thereof afterwards, and before the taking of the cattle aforesaid in the said place where, *Ec.* to wit, on the said 9th day of *April* in the 27th year of the reign of the said Lord the now King above said, at *S.* aforesaid in the county aforesaid, demised to the said *M.* the said 2 acres of arable land with the appurtenances in *B. F.* aforesaid; To have and to hold to him and his assigns from the 10th day of *April* then next ensuing unto the full end and term of 100 years from thence next ensuing and fully to be compleat and ended: By virtue of which said demise the same *M.* into the said 2 acres of arable land with the appurtenances entred, and was and yet is thereof possessed: But the said *T.* and *W.* farther say, that the said *M.* before the said time when, *Ec.* and the said time when, *Ec.* put into the said 2 acres of arable land, called the *Short Butts* in *B. F.* aforesaid, being the place where, *Ec.* 17 ewes and 17 lambs to feed on the grass there growing; and because the same 17 ewes and 17 lambs at the said time when, *Ec.* were in the said 2 acres of arable land with the appurtenances eating up the grass in the same then growing, and doing damage there, (being more than the said *M.* ought to feed in the said 2 acres of arable land aforesaid) the same *T. C.* as before well avows, and the said *W.* as bailiff of the said *T. C.* well acknowledges the taking of the said 7 ewes and 7 lambs aforesaid in the said place where, *Ec.* so doing damage there, *Ec.* without that, that the said *M.* at the said time when, *Ec.* put into the said 2 acres of arable land the said 7 ewes and 7 lambs only: And this they are ready to verify: Wherefore as before they pray judgment, and a return of the cattle aforesaid, together with their damages, costs and expences aforesaid, to be adjudged to them, *Ec.*

and traverses the putting in of 7 only,

and issue thereon.

And the said *M.* as before says, that he the said *M.* at the said time when, *Ec.* put into the said 2 acres of arable land the said 7 ewes and 7 lambs only, as he the said *M.* in his bar aforesaid hath above thereof alledged: And this he prays may be inquired of by the country: And the said *T.* and *W.* likewise, *Ec.* Therefore the sheriff is commanded, that he cause to come before the Lord the King from the day of *St. Michael* in three weeks wheresoever, *Ec.* 12, *Ec.* by whom, *Ec.* and who neither, *Ec.* to recognize, *Ec.* because as well, *Ec.* The same day is given to the parties aforesaid, *Ec.*

Cognisance as bailiff for a rent-charge.

AND the said *W.* by *H. S.* his attorney comes and defends the force and injury when, *Ec.* and as bailiff of *M. G.* well acknowledges the taking of the cattle aforesaid in the said place where, *Ec.* and justly, *Ec.* because he says, that the same place, in which the taking of those cattle is supposed to be, contains, and at the said time when the taking of those cattle is supposed to be, did contain in itself 40 acres of land with the appurtenances in *L.* aforesaid, and that long before the said time when, *Ec.* the said *F.* was seised of the said 40 acres of land with the appurtenances, whereof the place where, *Ec.* is parcel, in his demesne as of fee, and the said 40 acres of land held of the said *M.* as of his manor of *B.* in the county of *S.* aforesaid, by fealty, suit of court, and the rent of 12 s. 6 d. every year, at the feast of *St. Michael* yearly to be paid; of which services the said *M.* was seised by the hands of the said *F.* as by the hands of his very tenant, to wit, of the fealty and suit of court, and of the rent aforesaid in his demesne as of fee; and because 5 l. 12 s. 6 d. of the rent aforesaid, for nine years ended at the feast of *St. Michael* in the 26th year of the reign of the said Lord the now King, to the same *M.* at the said time when, *Ec.* were in arrear and not paid, the same *W.* as bailiff of the said *M.* well acknowledges the taking of the cattle aforesaid in the said place where, *Ec.* and justly, *Ec.* for the same five pounds twelve shillings and six pence so in form aforesaid being in arrear, as in parcel of the said land of the said *M.* in form aforesaid held,

held, and within the fee, &c. And this he is ready to verify: Wherefore he prays judgment, and a return of the cattle aforesaid, to be adjudged to him, &c.

And the said *F.* says, that the said *M.* was not seised of the services aforesaid by the hands of him the said *F.* as by the hands of his very tenant, as the said *W.* hath above alledged: And this he is ready to verify: Wherefore for that the said *W.* the taking of the cattle aforesaid in the said place where, &c. hath above acknowledged, the same *F.* prays judgment, and his damages by reason of the taking and unjust detention of the cattle aforesaid, to be adjudged to him, &c.

And the said *William* (as before) says, that the said *M.* was seised of the services aforesaid by the hands of the said *F.* as by the hands of very tenant, as he hath above alledged: And of this he puts himself upon the country: And the said *F.* likewise, &c. Therefore the sheriff is commanded, that he cause to come here from the day of the Holy Trinity in three weeks 12, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.

Legg against Stephens and others.

Gloucester, to wit. **T** *Thomas Stephens*, Esq; *Robert Parker*, Esq; and *Richard Brooke*, were summoned to answer to *Nicholas Legg* in a plea, why they took the Declaration.

cattle of him the said *Nicholas* and unjustly detained, against surety and pledges until, &c. And whereon the same *Nicholas* by *P. Hodges* his attorney complains, that the said *Thomas*, *Robert* and *Richard*, on the 10th day of *November* in the 32d year of the reign of the Lord *Charles* the Second, now King of *England*, &c. at the parish of *Old Sodbury* in the county aforesaid, in a certain place there called the *Stub Riding*, took the cattle, to wit, two oxen of him the said *Nicholas* and unjustly detained them, against surety and pledges until, &c. whereby the same *Nicholas* says that he is prejudiced, and hath damage to the value of 20*l.* And therefore he produces the suit, &c.

And the said *T. Stephens*, *R. Parker* and *R. Brooke*, by *T. Edwards* their attorney come and defend the force and injury when, &c. and the said *T. Stephens* and *R. Parker* well avow the cattle aforesaid in the said place where, &c. and justly, &c. because they say, that the same place, where the taking of the cattle aforesaid is supposed to be, doth contain, and at the said time, when the taking of those cattle is supposed to be, did contain in itself 80 acres of meadow with the appurtenances, called *Stub Riding*, situate in the parish of *Old Sodbury*, and then and from time immemorial was and yet is parcel of the manor and within the manor of *Old Sodbury* in the county aforesaid, and within the jurisdiction of the court-leet and view of frankpledge within specified; and that long before the said time when, &c. to wit, on the 10th day of *March* in the 32d year of the reign of the said Lord the now King, and long before, the said *T. S. R. P.* and one *J. Neale*, late of *Deane* in the county of *Bedford*, Esq; were jointly seised of and in the said manor of *Old Sodbury* aforesaid with the Seisin. appurtenances, situate within the parish of *Old Sodbury* aforesaid, in their demesne as of fee; and that at the said time when, &c. the said *N. Legg* was and yet is occupier of the said close called *Stub Riding*, and that the said *T. S. R. P.* and *J. N.* and all those whose estate the same *T. R.* and *J.* have in the same manor with the appurtenances, from time immemorial have had, and been accustomed to have, within the manor aforesaid, a certain court of view of frankpledge, and all things which to a court of view of frankpledge belong, of all the inhabitants and residents within the manor aforesaid twice a year, to wit, once within a month next after the feast of *Easter*, and again within a month next after the feast of *St. Michael* the Archangel, before their steward of that court for the time being within that manor yearly to be held, as to the said manor with the appurtenances belonging and appertaining: And the said *Thomas*, *Robert* and *Richard* farther say, that before the said time when, &c. to wit, at a court of view of frankpledge of the said *Thomas*, *Robert* and *John*, held at *Old Sodbury* aforesaid within the manor aforesaid, within a month next after the feast of *Easter*, to wit, on the 19th day of *April* in the 32d year of the reign of the said Lord the now King of *England*, &c. before *T. Edwards*, being then steward of the said *T. Stephens*, *R. Parker* and *J. Neale*, of the court of view of frankpledge, by the oath of 12 free and lawful men within the parish aforesaid resident and inhabiting, then and there to inquire and present those things which to the court leet and view of frankpledge aforesaid then belonged, then in the same court being charged and sworn, then and there in the same court it was presented, among other things, that the said *Nicholas Legg* the now plaintiff then and for three months then last past, being occupier of the said close called the *Stub Riding* within the jurisdiction of that court, had not opened the King's highway, being within the precinct of the manor aforesaid, and within the precinct of the leet aforesaid, and the jurisdiction of the said court of view and frankpledge, leading from the parish of *Yate* in the county aforesaid cross the said close called the *Stub Riding* unto

For stopping unto and into a certain common field called *Horwood Common* within the precinct of the same manor, and within the precinct of the said leet, and the jurisdiction of the court of view of frankpledge aforesaid, which before then there within the jurisdiction of the court-leet aforesaid he had stopped up and straitened, and the same way so straitened and stopped up then and for the space of three months then last past had continued straitened and stopped up, to the common nuisance of the people of the said Lord the King there by that way desiring to pass; whereupon the said *N. Legg*, the occupier of the said close called the *Stub Riding*, for the cause aforesaid, at and by the same court of view of frankpledge then and there was amerced; which said amercement by affectors then and there in the same court of view of frankpledge, to wit, *N. White* and *T. Adey*, affectors in the same court, thereto then charged and sworn, then and there was duly affected to 40 s. and farther in the same court by the said then steward of the said court, and the jurors aforesaid, it was order'd, that the said *N. Legg*, being the occupier of the close aforesaid, should open and leave open the way aforesaid for the subjects of the Lord the now King there after to travel and pass before the 23d day of *May* then next following, under the penalty of 4 l. of lawful money of *England*, to be forfeited to the Lord in default thereof; And the same *T. Stephens*, *R. Parker* and *R. Brooke* farther say, that the said *N. Legg* afterwards, to wit, the same day, year and place last mentioned, had notice of the order aforesaid, and that he being as aforesaid the occupier of the close aforesaid called the *Stub Riding*, did not open the same way for the liege subjects of the said Lord the King there to travel and pass at any time before the said 23d day of *May* then next ensuing, according to the form of the order aforesaid, by reason whereof at another court of view of frankpledge of the said *T. Stephens*, *R. Parker* and *J. Neale*, held at *Old Sodbury* aforesaid within the manor aforesaid, before the steward aforesaid, within one month next after the feast of *St. Michael*, to wit, on the 23d day of *October* in the 32d year of the reign of the said Lord the King aforesaid, by the oath of 12 other free and lawful men, being then in the same court last mentioned, lawfully sworn and charged to inquire and present in form aforesaid, it was in the same court presented, that the said *N. Legg*, the occupier of the close aforesaid called the *Stub Riding*, had not opened the same way for the liege subjects of the Lord the now King there to travel and pass, according to the form of the said order last mentioned in that behalf so as aforesaid then before for that purpose made; and that by reason thereof the said *N. Legg*, the occupier of the said close called the *Stub Riding*, had forfeited to the same *T. Stephens*, *R. Parker* and *J. Neale*, the Lords of the court aforesaid, and of the manor aforesaid with the appurtenances being then in form aforesaid seised, the said sum and penalty of the said 4 l. of lawful money of *England*: And the said *T. Stephens*, *Robert Parker* and *Richard* farther say, that afterwards and before the said time when, &c. to wit, 28th day of *October* in the 32d year of the reign of the said Lord the now King, the said *John Neale* at *Old Sodbury* aforesaid in the county aforesaid died, whereby not only the said manor with the appurtenances came to the same *T. Stephens* and *R. Parker* by right of survivorship, but the right of having the said amercement and penalty accrued to them the said *Thomas* and *Robert*: And the same *T. Stephens*, *Robert Parker* and *Richard* farther say, that at the time of the several presentments and courts aforesaid so as aforesaid held and made, the way aforesaid was stopped and straitened, and so continued, by the said *N. Legg*, the occupier of the close aforesaid, to the common nuisance of the subjects of the said Lord the King; and because the said sum and penalty of 4 l. above mentioned at the said time when, &c. was in arrear and unpaid, altho' it was demanded of the said *N. Legg*, to wit, at *Old Sodbury* aforesaid, the same *T. Stephens* and *R. Parker* in their own right well avow, and the said *R. Broke*, as bailiff of the said *T. Stephens* and *R. Parker*, and by their command, well acknowledges the taking of the cattle aforesaid, then being the cattle of the said *N. Legg* at the said time when, &c. in the said place where, &c. for the said penalty of 4 l. being in form aforesaid due and in arrear, and justly, &c.

And the said *Nicholas* says, that neither the said *Thomas* and *Robert* the taking of the cattle aforesaid in the said place where, &c. for the reason aforesaid before alledged ought to avow just, nor the said *Richard* for the same reason the same taking in the same place ought to acknowledge just, because by protesting that there is not any such King's highway as is above supposed, for plea the same *Nicholas* says, that the way aforesaid was not straitened and stopped by the said *Nicholas* in manner and form as the said *Thomas* and *Robert* above by avowing, and the said *Richard* above by acknowledging have supposed: And this he is ready to verify: Wherefore for that the said *Thomas Stephens*, *Robert Parker* and *Richard Broke*, the taking of the cattle aforesaid have above confessed, the same *Nicholas* prays judgment, and his damages by reason of the taking and unjust detention of those cattle, to be adjudged to him, &c.

And

And the said *Thomas Stephens, Robert Parker and Richard Broke* say, that the plea afore-^{Demurrer.} said by the said *Nicholas* above in bar to the avowry and cognisance aforeaid above plead- ed, and the matter in the same contained, are not sufficient in law to preclude them the said *Thomas, Robert and Richard*, from having their avowry and cognisance aforeaid, and that they to that plea in manner and form aforeaid pleaded have no necessity, nor are by the law of the land obliged, in any manner to answer: And this they are ready to verify: Wherefore for want of a sufficient plea in this behalf, the same *Thomas, Robert and Richard*, as before pray judgment, and a return of the cattle aforeaid, together with their damages, costs and expences, by them about their suit in this behalf sustained, according to the form of the statute in such case made and provided, to be adjudged to them, &c. And for ^{The causes.} causes of demurrer in law, the same *Thomas, Robert and Richard*, according to the form ^{27 El. c. 5.} of the statute in such case lately made and provided, do set down, and to the court here ^{4 Ann. c. 16.} express the causes following, to wit, because the matter is traversed otherwise than it is alledged in the declaration, whereby the plaintiff is obliged to prove what he hath not alledged, and likewise because the matter traversed is not traversable by the laws of this king- dom of *England* in the manner in which it is traversed in the plea.

And the said *Nicholas* says, that the plea aforeaid by him the said *Nicholas* above in bar to ^{Joinder in de-} the avowry and cognisance aforeaid above pleaded, and the matter in the same contained, ^{murrer.} are good and sufficient in law to preclude the said *Thomas, Robert and Richard*, from having their avowry and cognisance aforeaid; which said plea, and the matter in the same con- tained, the said *Nicholas* is ready to verify and prove, as the court, &c. And because the said *Thomas, Robert and Richard*, do not answer to that plea, nor the same hitherto in any wise deny, the same *Nicholas* as before prays judgment, and his damages aforeaid by reason of the taking and unjust detention of the cattle aforeaid, to be adjudged to him, &c. But because the court of the said Lord the King here are not yet advised to give their judgment of and upon the premisses, day therefore is given to the parties aforeaid before the Lord the King from the day of *St. Michael* in three weeks wheresoever, &c. to hear their judgment of and upon the premisses, because the court of the said Lord the King here thereof not yet, &c.

Liddiard and Creswicke.

M. 33 C. 2.

AND the said *Francis* by *Andrew Inmys* his attorney comes and defends the force and ^{Avowry for} injury when, &c. and well avows the taking of the cattle aforeaid in the said place ^{damage-fee-} in which, &c. and justly, &c. because he says, that the same place in which, &c. is known, ^{nant in his} and at the said time when, &c. and long before was known, as well by the name of *Han-* ^{freehold.} *nam's Common*, as by the name of *Hannam's Heath*, and contains, and at the same time when, &c. contained, in itself 50 acres of pasture with the appurtenances in the said parish of *Bitton* in the said county of *Gloucester*, which said 50 acres of pasture with the appurtenances are, and at the said time when, &c. were the soil and freehold of him the said *Francis*; and because the cattle aforeaid at the said time when, &c. were in the said place in which, &c. eating up the grafs there then growing, and doing damage there, the same *Francis* in his own proper right well avows the taking of the cattle aforeaid in the said place in which, &c. and justly, &c. so doing damage there: And this he is ready to verify: Wherefore he prays judgment, and a return of the cattle aforeaid, together with his damages, costs and charges, in this behalf sustained, according to the form of the statute in such case lately ^{21 H. 8. c. 19.} made and provided, to be adjudged to him, &c.

And the said *John Liddiard* says, that the said *Francis*, for the reason before alledged, ^{Bar, That} the taking of the cattle aforeaid in the said place in which, &c. ought not to avow just, ^{T. M. was} because by protesting that the same place in which, &c. at the said time when, &c. was ^{seised in fee,} not the freehold of him the said *Francis*, as is above supposed, for plea the same *John* says, ^{and demised} that long before the said time of the taking of the cattle aforeaid in the said place in which, ^{to W. L. and} &c. to wit, on the 21st day of *August* in the 10th year of the reign of the Lord *James*, ^{the plaintiff} late King of *England*, &c. *Theodore Newton*, Knt. was seised in his demesne as of fee of and in one messuage and 47 acres and a half of land arable, meadow and pasture, with the appurtenances in *Hannam* and *Bitton* in the parish of *Bitton* aforeaid in the county afore- said; and being so thereof seised, afterwards, to wit, on the said 21st day of *August* in the 10th year of the reign of the Lord *James*, late King of *England* aforeaid, at *Bitton* aforeaid in the county aforeaid, demised the messuage aforeaid and the said forty-seven acres and a half of land arable, meadow and pasture, with the appurte- nances, to *William Liddiard* and *Katherine* his wife, and him the said *John Liddiard*; To hold to the said *William Liddiard* and *Katherine* his wife for and during the term of their natural lives, and the natural life of the longer liver of them, and after their ^{decease}

decease the remainder thereof to the said *John Liddiard* for and during the term of the natural life of him the said *John*: By virtue of which said demise the same *William* and *Katherine* afterwards of the said messuage and the said 47 acres and a half of land arable, meadow and pasture with the appurtenances, were seised in their demesne as of freehold for the term of their lives and the life of the longer liver of them, the remainder thereof after their decease to the said *John* for the term of his life so as aforesaid belonging; and the said *William* and *Katherine* being so thereof seised afterwards, to wit, on the first day of *September* in the 32d year of the reign of the Lord *Charles* the Second, now King of *England*, &c. at *Bitton* aforesaid in the county aforesaid died thereof seised; after the death of which said *William* and *Katherine* he the said *John*, as in his remainder aforesaid, afterwards, to wit, on the said first day of *September* in the 32d year of the reign of the Lord *Charles* the Second, now King of *England*, &c. at *Bitton* aforesaid in the county aforesaid into the messuage aforesaid and the said 47 acres and a half of land arable, meadow and

The entry of
the plaintiff.

Prescription
for common.

pasture, with the appurtenances, by virtue of the demise aforesaid entred, and was and is yet thereof seised in his demesne as of freehold for the term of his life: And the same *John* farther says, that at the time of the demise aforesaid made, he the said *Theodore Newton*, and all those whose Estate the same *Theodore* then had of and in the said messuage and 47 acres and a half of land arable, meadow and pasture with the appurtenances, have had, and for time out of mind have been accustomed to have, for themselves, their farmers, and tenants of the said messuage and the said 47 acres and a half of land arable, meadow and pasture, with the appurtenances, common of pasture in the said place in which, &c. for all their commonable cattle in and upon their tenements aforesaid with the appurtenances levant and couchant every year at all times of the year, as to their tenements aforesaid belonging and appertaining: By reason whereof the said *John* before the said time when, &c. to wit, on the 9th day of *September* in the 33d year of the reign of the said Lord the now King, the cattle aforesaid in the declaration aforesaid above specified being then the proper cattle of him the said *John*, upon the said 47 acres and a half of land arable, meadow and pasture, with the appurtenances, then levant and couchant, into the said common called *Hannam's Common*, being the place in which, &c. put, as he well might, to use his common aforesaid; and the said *Francis* the said cattle, to wit, the said 30 sheep so in the said place in which, &c. put, feeding on the grafs there growing, and using the common of pasture of him the said *John* there, afterwards at the said time when, &c. to wit, on the 10th day of *September* in the 33d year aforesaid, at *Bitton* aforesaid in the said place in which, &c. commonly called *Hannam's Common*, took and them unjustly detained, against surety and pledges, in manner and form as the said *John* above against him complains: And this the same *John* is ready to verify: Wherefore he prays judgment, and his damages by reason of the taking and unjust detention of the cattle aforesaid, to be adjudged to him, &c.

Repl. That
it is his free-
hold.

Traverse of
the prescrip-
tion.

And the said *Francis Creswicke* as before says, that the said 50 acres of pasture, called *Hannam's Common*, otherwise *Hannam's Heath*, are and at the said time when, &c. were the soil and freehold of him the said *Francis*; and because the cattle aforesaid at the said time when, &c. were in the said place in which, &c. eating up the grafs then there growing, and doing damage there, the said *Francis* the same cattle took, as he hath above alledged; without that, that the said *Theodore*, and all those whose estate the same *Theodore* then had of and in the said messuage and 47 acres and a half of land arable, meadow and pasture with the appurtenances, have had, and from time out of mind have been accustomed to have, for themselves, their farmers and tenants, of the said messuage and the said 47 acres and a half of land arable, meadow and pasture with the appurtenances, common of pasture in the said place in which, &c. for all their commonable cattle in and upon their tenements aforesaid with the appurtenances, levant and couchant every year at all times of the year, as to their tenements aforesaid belonging and appertaining, as the said *John* in bar to the avowry aforesaid hath above alledged: And this he is ready to verify: Wherefore he prays judgment, and a return of the cattle aforesaid, together with his damages, &c. to be adjudged to him, &c.

Issue on the
traverse.

And the said *John Liddiard* as before says, that the said *Theodore Newton*, and all those whose estate the same *Theodore* then had in the said messuage and 47 acres and a half of land arable, meadow and pasture with the appurtenances, have had, and from time out of mind have been accustomed to have, for themselves, their farmers and tenants of the said messuage and the said forty-seven acres and a half of land arable, meadow and pasture, with the appurtenances, common of pasture in the said place in which, &c. for all their commonable cattle in and upon their tenements aforesaid with the appurtenances levant and couchant every year at all times of the year, as to their tenements aforesaid belonging and appertaining, in manner and form as he the said *John Liddiard* hath above alledged: And this he prays may be inquired of by the country: And the said *Francis* likewise: Therefore the sheriff is commanded, that

he cause to come before the Lord the King in the Octave of St. Hillary wheresoever, &c. 12, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. The same day is given to the parties aforesaid, &c.

Creswick and Trewbody. Declaration for taking two oxen and two heifers in *E.* &c.

Hill. 34 & 35 C. 2.

Gloucester, to wit. **A**ND the said defendant when, &c. and as bailiff of *J. Newton*, Bart. Tenants of the manor have common in the place where, &c. well acknowledges the taking of the cattle aforesaid in the said place in which, &c. and justly, &c. because he says, that the said close called *E.* in which the taking of the cattle aforesaid is supposed to be, is, and at the said time when, &c. and also from time immemorial was, a great field containing 40 acres of meadow, situate within the manor of *H.* in the parish of *B.* in the county aforesaid, in which said field very many tenants of the manor aforesaid have, and for all the time aforesaid have been accustomed and ought to have, common of pasture for all their rother beasts and horse beasts in and upon their several and respective tenements, parcel of the same manor, levant and couchant, from the first Sunday next after the 10th day of *August*, called *S. day*, until the first Sunday next after the second day of *February*, commonly called *Candlemas day*, yearly and every year, as to their several and respective tenements belonging: And the said defendant farther says, that within the manor aforesaid, to wit, at that manor there is, and from time immemorial hath been, a certain laudable custom used for the preservation of the grafs and the improvement of the common aforesaid in the meadow aforesaid, that as often as any person or persons at any time after the mowing and carrying away of the first mowing of the grafs in the field aforesaid called *E.* yearly growing, and before the said first Sunday next after the said 10th day of *August*, commonly called *S. day*, in any year should put any cattle to feed in the field aforesaid, the Lord of the manor aforesaid for the time being from time to time for all the time aforesaid hath used, been accustomed and ought to take, distrain and impound the cattle so being in the field aforesaid before the day aforesaid, and doing damage there, for the damage done in the field aforesaid: And the said defendant farther says, that the said plaintiff, after the first mowing of the grafs in the field aforesaid in that year growing, mowed and carried away, and before the said first Sunday next after the said 10th day of *August*, called *S. day*, and before the said time when, &c. to wit, the said 8th day of *August* in the 34th year of the reign of the said Lord the now King aforesaid, put the cattle in the declaration aforesaid mentioned into the said field called *E.* wherefore the said defendant, as bailiff of the said *J. N.* then and long before Lord of the manor aforesaid, and so thereof seised as of freehold, by his command at the same time when, &c. for the cause aforesaid, well acknowledges the taking of the cattle aforesaid in the said place where, &c. doing damage there, and justly, &c. And this, &c. Wherefore he prays judgment, and a return of the cattle aforesaid, together with his damages, costs and charges, by him about his suit in this behalf sustained, to be adjudged to him, &c. Breach of the custom. manor as to the usage of it.

And the said plaintiff says, that the said defendant for the reason before alledged ought not to acknowledge the taking of the cattle aforesaid in the said place where, &c. just, &c. because by protesting that within the said manor of *H.* there is nor, nor from time, &c. hath been, any such custom used for the preservation of the grafs, and the improvement of the common in the field aforesaid, that as often as any person or persons at any time after the mowing and taking away of the first mowing of the grafs in the field aforesaid called *E.* yearly growing, and before the said first Sunday next after the 10th day of *August* in any year should put any cattle to feed in the field aforesaid, the Lord of the manor aforesaid for the time being from time to time hath used and been accustomed, and ought to take, distrain and impound the cattle so being in the field aforesaid before the said day, and doing damage there, for the damage done in the field aforesaid, in manner and form as the said defendant hath above alledged, for plea the same plaintiff says, that he the said plaintiff long before the said time when, &c. and also at the said time when, &c. was seised in his demesne as of fee of and in a certain manor called *H.* in the parish of *B.* aforesaid in the county aforesaid, within which said manor the said field called *E.* is, and at the said time when, &c. and also from time immemorial was lying and being, and thereof parcel; and that the said defendant of his own wrong on the said 8th day of *August* in the 34th year aforesaid, at *W.* aforesaid in the said place called *E.* took the cattle aforesaid and unjustly detained them, against surety and pledges, until, &c. in manner and form as the same plaintiff above against him complains; without that, Bar, by protesting there is no such custom. That the close is within his manor.

Traverse. that, that the said close called *E.* is, and for time immemorial was, situate within the manor of the said *J. N. of H.* in manner and form as the said defendant hath above alledged: And this, &c. Wherefore he prays judgment, and his damages by reason of the taking and unjust detention of the cattle aforesaid, to be adjudged to him, &c.

Issue on the traverse. And the said defendant as before says, that the close aforesaid called *E.* in which, &c. is, and for time immemorial was, situate within the manor of the said *J. N. of H.* in manner and form as the said defendant hath above alledged: And of this he puts himself upon the country: And the said plaintiff likewise, &c. Therefore the sheriff is commanded, &c.

Bave against *Creswick* in replevin for taking a gelding in a place called *E.*

H. 34 & 35 C. 2.

Avowry for damage-feasant.

AND the said defendant by, &c. when, &c. and well avows the taking of the gelding aforesaid in the said place in which, &c. and justly, &c. because he says, that the said place in which, &c. contains, and at the said time when, &c. did contain in itself, 17 acres of pasture with the appurtenances in the said parish of *B.* in the county aforesaid; which said 17 acres of pasture with the appurtenances are, and at the said time when, &c. were, the soil and freehold of him the said defendant; and because the gelding aforesaid at the said time when, &c. was in the said place in which, &c. eating up the grafs then there growing, and doing damage there, the same defendant in his own proper right well avows the taking of the gelding aforesaid in the said place in which, &c. and justly, &c. so doing damage there, &c. And this, &c. Wherefore he prays judgment, and a return of the gelding aforesaid, together with his damages, costs and charges in this behalf sustained, according to the form of the statute in such case made and provided, to be adjudged to him, &c.

21 H. 8. c. 19.

Bar to the avowry.

Seisin in fee.

Prescription for common.

And the said plaintiff says, that the said defendant, for the reason before alledged, the taking of the gelding aforesaid in the said place in which, &c. ought not to avow just, because by protesting that the same place in which, &c. at the said time when, &c. was not the freehold of him the said defendant, as above thereof is supposed, for plea nevertheless the same plaintiff says, that long before the said time of the taking of the gelding aforesaid in the said place in which, &c. as also at the said time when, &c. he the said plaintiff was seised of and in one capital messuage, and 200 acres of land with the appurtenances, in *B.* in the county aforesaid in his demesne as of fee; and that he the said plaintiff, and all those whose estate the same plaintiff then had of and in the said capital messuage, and 200 acres of land with the appurtenances, at the said time when, &c. and also from time immemorial have had, and for all the time aforesaid have been accustomed and ought to have, common of pasture in the said place in which, &c. for all their horse beasts in and upon their tenements aforesaid, levant and couchant, from the first Sunday next after the 10th day of August, commonly called *S. day*, until the first Sunday next after the 2d day of February, commonly called *Candlemas day*, yearly and every year, as to their tenements aforesaid belonging and appertaining; by reason whereof the said plaintiff after the first Sunday next after the said 10th day of August, and before the first Sunday next after the 2d day of February, to wit, on the 7th day of September in the 34th year of the reign of the Lord the now King aforesaid, the gelding aforesaid in the declaration aforesaid above specified, then being the proper gelding of him the said plaintiff, upon his tenements aforesaid levant and couchant, into the said place in which, &c. to have his common there put, as he well might; and the said defendant the said gelding so in the said place in which, &c. put, and feeding on the grafs there growing, and using the common of pasture of him the said plaintiff there, afterwards at the said time when, &c. to wit, on the said 8th day of September in the 34th year aforesaid, at *B.* aforesaid in the said place in which, &c. called *E.* took, and that gelding unjustly detained, against surety and pledges, in manner and form as the said plaintiff above against him complains: And this the said plaintiff is ready to verify: Wherefore he prays judgment, and his damages by reason of the taking and unjust detention of the gelding aforesaid, to be adjudged to him, &c.

Traverse of the custom.

And the said defendant as before says, that the said 17 acres of pasture with the appurtenances are, and at the said time when, &c. were, the soil and freehold of him the said defendant, as he hath above thereof alledged; without that, that the said plaintiff, and all those whose estate he at the said time when, &c. had of and in the said capital messuage and tenements aforesaid at the said time when, &c. and also from time immemorial have had, and have been accustomed and ought to have, common of pasture in the said place in which, &c. for all their horse beasts in and upon their tenements aforesaid with the appurtenances levant and couchant, from the first Sunday next after the 10th day of August until the first Sunday next after the 2d day of February yearly and every year, as to their tenements aforesaid belonging and appertaining, as the

the said plaintiff hath above thereof alledged: And this, &c. Wherefore as before he prays judgment, and a return of the gelding aforesaid, together with his damages, costs and charges, according to the form of the statute aforesaid, to be adjudged to him, &c.

And the said plaintiff as before says, that he, and all those whose estate he at the said Issue on the time when, &c. had of and in the capital messuage and tenements aforesaid at the said time traverse when, &c. and also from time immemorial have had, and have been accustomed and ought to have, common of pasture in the said place in which, &c. for all their horse beasts in and upon their tenements aforesaid levant and couchant, from the first Sunday next after the 10th day of August until the first Sunday next after the 2d of February yearly and every year, as to their tenements aforesaid belonging and appertaining, in manner and form as, &c.

Ingram and Hale at the suit of Fletcher.

M. 7 W. 3. Roll 107.

Stafford, to wit. Joseph Ingram and John Hale were summoned to answer to James Fletcher Declaration. in a plea, why they took the cow of him the said James and unjustly detained it, against surety and pledges, &c. And whereon the said James by John Lilly his attorney complains, that the said Joseph and John on the 20th day of February in the 7th year of the reign of the Lord William the Third, now King of England, &c. at Shenston in the county aforesaid, in a certain place there called the Lane, took the cow aforesaid of him the said James and unjustly detained it, against surety and pledges, until, &c. whereby the said James says that he is prejudiced, and hath damage to the value of 20 l. And therefore he produces the suit, &c.

And the said Joseph and John Hale by Thomas Callowe their attorney come and defend the force and injury when, &c. and as bailiffs of Rowland Fryth, Gent. well acknowledge the taking of the cow aforesaid in the said place in which, &c. and justly, &c. because they say, that the same place in which the taking of the cow aforesaid is supposed to be contains, and at the said time when the taking of the cow aforesaid is supposed to be contained in itself, an acre of land with the appurtenances in Shenston aforesaid; which said town of Shenston is, and at the said time when, &c. and also from time out of mind was, within the manor of Shenston with the appurtenances in the county aforesaid; of which said manor with the appurtenances the said Rowland is, and at the said time when, &c. and long before was, seised in his demesne as of fee; and the said Rowland, and all those whose estate he hath in the same manor with the appurtenances, for time out of mind have had, and been accustomed to have, a court-leet or view of frankpledge of the same manor, and whatever to view of frankpledge belongs, of all the inhabitants and residents of that manor, before the steward of the same court for the time being, every year within a month next after the feast of St. Michael the Archangel, at that manor yearly to be held, as to the same manor with the appurtenances belonging: And the same Joseph and John farther say, that within the manor aforesaid there is, and from time out of mind hath been, such custom, that the jurors to inquire and present those things, which to that court-leet and view of frankpledge belong, charged and sworn, at the court of view of frankpledge of the manor aforesaid, held at that manor within a month next after the feast of St. Michael the Archangel, yearly have chosen, and for all the time aforesaid have been accustomed to choose, a proper man from the inhabitants within the manor aforesaid to be constable of the constablewick of Shenston aforesaid, to serve for one year in that office; which said man so elected hath taken upon himself, and for all the time aforesaid hath been used and accustomed to take upon himself that office, and hath taken and been accustomed to take an oath for the due execution of that office, under a reasonable penalty, for all the time aforesaid, by the jurors aforesaid at such court-leet and view of frankpledge in that behalf set: And the same Joseph and John farther say, that the said Rowland being Lord of the manor aforesaid, and of the same in form aforesaid seised, at a court-leet or view of frankpledge of that manor, held at that manor within a month next after the feast of St. Michael the Archangel, to wit, on the ninth day of October in the fifth year of the reign of the Lord William now King and the Lady Mary late Queen of England, &c. before Henry Fryth, Gent. then steward to the said Rowland of that court, the said James Fletcher then and long before being an inhabitant within the manor aforesaid at Shenston aforesaid, and a proper man to be constable of the said constablewick of Shenston aforesaid, by E. Thornton, T. Grace, J. C. J. A. J. H. W. M. W. R. N. W. T. S. J. M. J. S. J. A. and J. D. good and lawful men, and inhabiting within the manor

Cognisance for a distress for a fine at a court leet.

Seisin in fee.

Prescription for a court-leet.

Custom to choose a constable.

Objected, that it should be for one year next ensuing.

A court-leet held.

The plaintiff
elected con-
stable.

The order of
the jury.

The penalty
for not ser-
ving.

* The chief
justice held
this to be
naught; for
said he, they
should only e-
lect him, and
he should have
notice of such
election, and
if he did not
thereupon go
to a justice of
peace to be
sworn, he
should be pre-
sented for this
default at the
next court,
and should be
amerced, and
the amerce-
ment affect'd.

The court
also held it
naught for not
laying the no-
tice more par-

ticular, as that he was present in court, or that he had notice given that he was elected constable, and required to take an oath before a justice of peace. A second presentment *prout per record*, &c. The fine not paid. Note; It is said in a case in *Moore*, That the bailiffs should have had a warrant from the steward to distrain.

nor aforesaid, and then and there in the same court charged and sworn to inquire and present those things which to that court-leet and view of frankpledge belonged, duly and according to the custom aforesaid was chosen to be constable of the constablewick of *Sbenston* aforesaid for one year then next ensuing to serve in that office; and those jurors then and there in the same court ordered, that the said *James* should take his oath for the due execution of his office aforesaid, under the penalty of forfeiting 40s. whereof the said *James Fletcher* immediately afterwards, to wit, the same day and year there had notice: * Nevertheless the said *James* hath not taken his oath for the due execution of the office of constable aforesaid, nor hath executed or taken upon himself that office, but to do it then and often afterwards there absolutely refused; wherefore afterwards and before the said time when, &c. to wit, at a court-leet or view of frankpledge of the said manor of the said *Rowland*, held at that manor within a month next after the feast of *St. Michael* the Archangel, to wit, on the 11th day of *October* in the 6th year of the reign of the said Lord King *William* and the Lady *Mary*, late Queen of *England*, before *Henry Fryth* then steward to the said *Rowland* of that court, by *Edward Thornton*, *J. C. W. P. T. G. T. G. J. P. J. J. E. H. T. S. J. M. W. M. G. H. J. S.* the younger, and *J. A.* good and lawful men then inhabiting within the manor aforesaid, then and there in the same court sworn and charged to inquire and present those things which to that court-leet or view of frankpledge belonged, it was presented, that the said *James Fletcher*, because he was duly elected to be constable of the constablewick of *Sbenston* aforesaid at the last leet held for the manor aforesaid, and under the penalty of 40s. on him set, was ordered to take upon himself that office, and execute it, and take his oath in form aforesaid for the due execution of that office; which, or any part whereof, he had not done, wherefore he had forfeited to the Lord of the manor aforesaid the said 40s. of the penalty aforesaid, then to be paid to the Lord of the manor aforesaid, as by the record thereof in the custody of the said steward of the court of the manor of him the said *Rowland* at that manor remaining more fully appears: And because the said 40s. for that penalty to the same *Rowland*, so as aforesaid being Lord of the manor aforesaid, at the said time when, &c. were in arrear and unpaid, the same *Joseph* and *John Hale*, as bailiffs of him the said *Rowland*, well acknowledge the taking of the cow aforesaid in the said place in which, &c. and justly, &c. for the same 40s. for the penalty or amercement aforesaid to the said *Rowland* so being in arrear and unpaid, and within the manor aforesaid, &c.

Demurrer.

And the said *James* says, that by any thing by the said *Joseph* and *John* above in the cognisance aforesaid by pleading alledged, the same *Joseph* and *John* the taking of the cow aforesaid in the said place in which, &c. ought not to acknowledge just, because he says, that the plea aforesaid by them the said *Joseph* and *John* in manner and form aforesaid above pleaded, and the matter in the same contained, are not sufficient in law to acknowledge the taking of the cow aforesaid in the said place in which, &c. just, and that he to that cognisance in manner and form aforesaid made and pleaded hath no necessity, nor is by the law of the land obliged, to answer: And this he is ready to verify: Wherefore for want of a sufficient plea in this behalf the same *James* prays judgment, and his damages by reason of the taking and unjust detention of the cow aforesaid, to be adjudged to him, &c.

Joinder in de-
murrer.

And the said *Joseph* and *John* say, that the plea aforesaid by them the said *Joseph* and *John* in manner and form aforesaid above pleaded, and the matter in the same contained, are good and sufficient in law for them the said *Joseph* and *John* to acknowledge the taking of the cow aforesaid in the said place in which, &c. just; which said plea, and the matter in the same contained, they the said *Joseph* and *John* are ready to verify and prove, as the court, &c. And because the said *James* hath not pleaded or answered to that cognisance, nor hitherto any way denied it, the same *Joseph* and *John* pray judgment, and a return of the cow aforesaid, together with their damages, costs and charges, according to the form of the statute in such case made and provided, to be adjudged to them, &c. But because the court of the said Lord the King now here are not yet advised to give their judgment of and upon the premisses, day therefore is given to the parties aforesaid before the Lord the King until wheresoever, &c. to hear their judgment of and upon those premisses, because the court of the said Lord the King now here thereof not yet, &c.

Sylas Titus, Esq; against Parkins, Knt.

Hertford, to wit. **W**illiam Parkins late of *Bushey* in the county aforesaid, Knt. was summoned to answer to *Sylas Titus, Esq;* in a plea, why he took the cattle of him the said *Sylas* and unjustly detained them, against surety and pledges, &c. And whereon the same *Sylas* by *John Warburton* his attorney complains, that the said *William* on the 18th day of *May* in the first year of the reign of the Lord *James* the Second, now King of *England*, &c. at *Bushey*, in a certain place there called *Marrybill Ground*, the cattle of him the said *Sylas*, to wit, 36 wether sheep, 12 ewe sheep and 8 lambs, took and unjustly detained them, against surety and pledges until, &c. whereby the same *Sylas* says that he is prejudiced, and hath damage to the value of 10 *l*. And therefore he produces the suit, &c. Declaration.

And the said *William* by *Randal Baldwin* his attorney comes and defends the force and injury when, &c. and the same *William* in his own proper right well avows, and as bailiff to *Algernon* Earl of *Essex*, well acknowledges the taking of the cattle aforesaid in the said place in which, &c. and justly, &c. because he says, that the same place in which the taking of the cattle aforesaid is supposed to be contains, and at the said time when the taking of the cattle aforesaid is supposed to be, did contain in itself two acres of pasture with the appurtenances in *Bushey* aforesaid; which said two acres of pasture with the appurtenances are, and at the said time when, &c. were, the soil and freehold of them the said *William* and *Algernon* Earl of *Essex*; and because the cattle aforesaid at the said time when, &c. were in the said two acres of pasture eating up the grafs in the same then growing, and doing damage there, the same *William* in his own proper right well avows, and as bailiff to said *Algernon* Earl of *Essex*, well acknowledges the taking of the cattle aforesaid in the said place in which, &c. and justly, &c. so doing damage there, &c. Avowry and cognisance for damage feasant.

And the said *Sylas* says, that the said *William*, for the reason before alledged, the taking of the cattle aforesaid in the said place in which, &c. ought not in his own proper right to avow, and as bailiff of the said Earl to acknowledge just, because he says, that the said two acres of pasture in which, &c. are, and at the said time when, &c. and also from time immemorial were, parcel of the manor of *Bushey* and customary land of the same manor, and demised and demiseable by copy of court-roll of that manor, by the Lord or Lords of the same manor, or by their steward of the court of that manor for the time being, to any person or persons willing to take them in fee-simple, or otherwise, at the will of the Lord or Lords, according to the custom of the manor aforesaid: And the same *Sylas* farther says, that the said Earl and *William* before the said time when, &c. to wit, on the 21st day of *April* in the first year of the reign of the said Lord the now King aforesaid, were lawfully Lords of the manor aforesaid; and the said Earl and *William*, being then Lords of the manor aforesaid, the same Earl and *William* afterwards and before the said time when, &c. to wit, on the same 21st day of *April* in the first year aforesaid, at a court of them the said Earl and *William*, of their manor aforesaid, then held for that manor within the manor at *Bushey* aforesaid in the county of *Hertford*, by one *Thomas Smith*, Gent. then their steward of the court of their manor aforesaid, by copy of court-roll of that manor granted the said two acres of pasture with the appurtenances in which, &c. among other things, to the said *Sylas*; To have and to hold to the same *Sylas*, his heirs and assigns for ever, at the will of the Lords, according to the custom of the manor aforesaid; and the same *Sylas*, according to the custom of the manor aforesaid, then and there was admitted tenant thereof: By virtue of which said grant and admission, the same *Sylas* before the said time when, &c. into the said two acres of pasture with the appurtenances in which, &c. among other things, entred, and was and yet is thereof seised in his demesne as of fee, at the will of the Lords, according to the custom of the manor aforesaid; and he the said *Sylas* being so thereof seised, the same *Sylas* before the said time when, &c. put his cattle aforesaid into the said two acres of pasture in which, &c. to feed on the grafs there then growing, and those cattle were in the said two acres of pasture in which, &c. feeding on the grafs there then growing, until the said *William Parkins* on the said 18th day of *May* in the first year aforesaid, at *Bushey* aforesaid, in the said two acres of pasture called *Marrybill Grounds*, in which, &c. took the same cattle of the said *Sylas* and unjustly detained them, against surety and pledges, until, &c. as the same *Sylas* above against him complains: And this he is ready to verify: Wherefore for that the said *William Parkins* the taking of the cattle aforesaid hath above confessed, the same *Sylas* prays judgment, and his damages by reason of the taking and unjust detention of those cattle, to be adjudged to him, &c. Bar, that the locus in quo is copyhold held of the manor of *Bushey*, &c. That the defendant being Lord of the manor granted it to the plaintiff in fee, according, &c. and he being seised put in his cattle, and the defendant distrained 'em.

Repl. That
the land is
held of the
manor of B.

Grant by
copy.

The yearly
value.

The fine.

Forfeiture for
non-payment.
Denial to pay
an uncertain
fine is no for-
feiture.

Raym. 42.

Co. Ent. 647.

There ought
to be a de-
mand.

Cro. El. 779.

Cro. Jac. 617.

21 H. 8. c. 19.

And the said *W.* says, that well and true it is, that the said two acres of pasture with the appurtenances in which, *Ec.* are, and at the said time when, *Ec.* and also from time immemorial were, parcel of the said manor of *Busbey*, and customary lands of the same manor, and demised and demisable by copy of court-roll of that manor, by the Lord or Lords of the same manor, or by their steward of the court of that manor for the time being, to any person or persons willing to take them in fee-simple, or otherwise, at the will of the Lord or Lords, according to the custom of the manor aforesaid; and that the said Earl and *W.* before the said time when, *Ec.* to wit, the said 21st day of *April* in the first year of the reign of the said Lord the now King aforesaid, were lawfully Lords of the manor aforesaid; and that the said Earl and *W.* then being Lords of the manor aforesaid, the same Earl and *W.* afterwards and before the said time when, *Ec.* to wit, on the said 21st day of *April* in the first year aforesaid, at *Busbey* aforesaid in the county of *Hertford* aforesaid, by the said *T. Smith*, then their steward of the court of their manor aforesaid, by copy of court-roll of that manor granted the said two acres of pasture with the appurtenances in which, *Ec.* among other things, to the same *Sylas*; To have and to hold to the same *Sylas*, his heirs and assigns for ever, at the will of the Lords, according to the custom of the manor aforesaid; and that the said *Sylas*, according to the custom of the manor aforesaid, was then and there admitted tenant thereof; and that by virtue of the grant and admission aforesaid, he the said *Sylas* before the said time when, *Ec.* into the said two acres of pasture with the appurtenances among other things entred, and was thereof seised in his demesne as of fee at the will of the Lords, according to the custom of the manor aforesaid, as the said *Sylas* above by pleading hath alledged: But the said *W. Parkins* farther says, that the said two acres of pasture with the appurtenances in which, *Ec.* together with the other lands and tenements in the same copy mentioned, and by the same copy to the said *Sylas* and his heirs granted, and to which the said *Sylas* was as aforesaid admitted, at the said time of the admission of the said *Sylas* to the same, were and yet are of the clear yearly value of 28 *l.* and that the said Earl and *W.* by the said *T. Smith* in the said full court of the manor aforesaid, held within that manor on the said 21st day of *April* in the first year of the reign of the said Lord the now King aforesaid, he the said *T. Smith*, being then steward as aforesaid of the said Earl and *W.* then Lords of the manor aforesaid, of the said court of their manor aforesaid, after the said admission of the said *S. Titus* to the said two acres in which, *Ec.* and the said other lands and tenements by the copy aforesaid made to the said *Sylas* granted, then and there did assess and appoint the sum of 35 *l.* for the fine for the said grant to the said *Sylas* of the said two acres of pasture with the appurtenances in which, *Ec.* and the other lands and tenements aforesaid, by the copy aforesaid in form aforesaid granted, to be paid by him the said *Sylas* to the said Earl and *W.* being as aforesaid Lords of the manor aforesaid, on the first day of *May* then next ensuing, at the porch of the parish church of *Busbey* aforesaid in the said county of *Hertford*; and that the said *Sylas* then and there, to wit, at the manor aforesaid, of all and singular the premisses had notice: And the said *W.* farther says, that the fine aforesaid for the lands and tenements by the copy aforesaid in manner and form aforesaid granted to the said *Sylas* was a reasonable fine; and that the said *S. Titus*, altho' he had notice from the said Lords of the manor aforesaid, at the court aforesaid held as aforesaid at the manor aforesaid, on the said 21st day of *April* aforesaid, of the premisses aforesaid, did not pay to the said Earl and *W.* Lords of the manor aforesaid, or either of them, the said sum of 35 *l.* for the fine aforesaid in form aforesaid assessed, on the said first day of *May* then next ensuing the admission of him the said *Sylas* at the said porch of the parish church of *Busbey* aforesaid, but the same 35 *l.* to the said Earl and *W.* then and there absolutely denied and refused, and yet doth refuse, to pay; whereby the same *S. T.* hath forfeited to the said Earl and *W.* being as aforesaid the Lords of the manor aforesaid, whereof, *Ec.* all his customary right, estate, title and interest aforesaid, of and in the said two acres of pasture with the appurtenances in which, *Ec.* and the said other lands and tenements in the grant aforesaid specified; after which said forfeiture in form aforesaid made, and before the said time when, *Ec.* the said Earl and *W.* being as aforesaid Lords of the manor aforesaid, into the said two acres of pasture with the appurtenances in which, *Ec.* entred, and were and yet are thereof seised in their demesne as of fee; and because the cattle aforesaid after the entry aforesaid, to wit, at the said time when, *Ec.* were in the said two acres of pasture with the appurtenances in which, *Ec.* eating up the grafs in the same then growing, and doing damage there, the same *W.* as before in his own proper right well avows, and as bailiff to the said Earl well acknowledges the taking of the cattle aforesaid in the said place in which, *Ec.* and justly, *Ec.* so doing damage there: And this he is ready to verify: Wherefore as before he prays judgment, and a return of the cattle aforesaid, together with his damages, costs and expences by him about his suit in this behalf sustained, according to the form of the statute in such case thereof lately made and provided, to be adjudged to him, *Ec.*

And the said *Sylas* by protesting that the sum aforesaid of 35*l.* for the fine aforesaid for the said lands and tenements by the copy aforesaid to the said *Sylas* in manner and form aforesaid granted was not a reasonable fine, as the said *W.* above by pleading hath alledged, for plea the same *Sylas* says, that within the manor aforesaid there is, and from time immemorial hath been, such custom used and approved within that manor for all the time aforesaid, to wit, that every person or persons who should be admitted tenant or tenants to any customary lands or tenements of that manor by copy of court-roll of that manor, hath and have been and ought to pay to the Lord or Lords of the same manor for the time being, for a fine for his or their admission to such customary lands or tenements, so much money as those lands or tenements were worth by the year at the time of such admission, and no more: And the said *Sylas* in fact says, that the said two acres of pasture with the appurtenances in which, &c. together with the other lands and tenements in the same copy mentioned, and by the same copy to the said *Sylas* and his heirs granted, and to which the said *Sylas* was as aforesaid admitted, at the time of the admission of the said *Sylas* to the same were worth, and yet are worth, by the year 28*l.* and no more: And the same *Sylas* farther says, that at the time of his admission to the tenements aforesaid with the appurtenances, to wit, at the said court of the manor, held within that manor on the said 21st day of April in the first year aforesaid, he was ready and offered to pay to the said *W.* then one of the Lords of that manor, being then and there present in his proper person, so much money as the said customary tenements with the appurtenances were worth by the year at the time of the admission of him the said *Sylas* to the same, to wit, 28*l.* of lawful money of England; which said 28*l.* the said *W.* then and there absolutely refused to receive or accept of the same *Sylas*: And this he is ready to verify: Wherefore as before he prays judgment, and his damages by reason of the taking and unjust detention of the cattle aforesaid, to be adjudged to him, &c.

Protesting the fine is unreasonable, pleads a custom to pay a year's value only.

The lands worth but 28*l.* per ann. which he offered to pay.

And the said *W.* says, that the plea of the said *Sylas* above in rejoining pleaded, and the matter in the same contained, are not sufficient in law to preclude him the said *W.* from having his avowry and cognisance aforesaid, and that he to that plea in manner and form aforesaid pleaded hath no necessity, nor is by the law of the land obliged, to answer: And this he is ready to verify: Wherefore for want of a sufficient plea in this behalf, the same *W.* as before prays judgment, and a return of the cattle aforesaid, together with his damages, costs and expences by him about his suit in this behalf sustained, according to the form of the statute in such case thereof lately made and provided, to be adjudged to him, &c. And for cause of demurrer in law to that plea, the same *W.* according to the form of the statute in such case thereof lately made and provided, sets down, and to the court here expresses this cause following, to wit, that the value of the land remains in estimation, and the custom aforesaid by the said *Sylas* above in pleading pretended and alledged is uncertain, insufficient and void in law.

Demurrer.

The cause. 27 El. c. 5. 4 Ann. c. 16.

And the said *Sylas*, for that he hath above alledged sufficient matter in law in his plea aforesaid above in rejoining pleaded to preclude the said *W.* from having his avowry and cognisance aforesaid, which he is ready to verify, which said matter the said *W.* doth not deny, nor thereto in any wise answer, but altogether refuses to admit that averment, as before prays judgment, and his damages by reason of the taking and unjust detention of the cattle aforesaid, to be adjudged to him, &c. And because the justices here will advise themselves of and upon the premises before they give judgment thereon, day therefore is given to the parties aforesaid here until on the Octave of St. *Hilary* to hear their judgment thereon, because the same justices here thereof not yet, &c. On which day here comes as well the said *Sylas* as the said *W.* by their attornies aforesaid; and hereupon the premises being seen, and by the justices here more fully understood, it seems to the said justices here, that the said plea of the said *Sylas* above in rejoining pleaded, and the matter in the same contained, is sufficient in law to preclude him the said *W.* from having his avowry and cognisance aforesaid, as the said *Sylas* hath above alledged; wherefore the said *Sylas* ought to recover his damages against the said *W.* by reason of the taking and unjust detention of the cattle aforesaid: But because it is unknown what damages the said *Sylas* hath sustained by reason of the taking and unjust detention of the cattle aforesaid, the sheriff is commanded, that by the oath of good and lawful men of the county aforesaid he diligently inquire what damages the said *Sylas* hath sustained, as well by reason of the taking and unjust detention of those cattle, as for his costs and charges by him about his suit in this behalf sustained; and the inquisition which he shall thereof make, he certify here from the day of *Easter* in 15 days, under the seal, &c. and the seals, &c. On which day here comes the said *Sylas* by his attorney aforesaid; and the sheriff, to wit, *Joseph Edmunds*, Esq; hath now returned here a certain inquisition taken before him at *Stevenage* in the county aforesaid on the 15th day of *April* last past, by the oath of 12, &c. whereby it is found that the said *Sylas* hath sustained damage by reason of the taking and unjust detention of the cattle aforesaid, beside his costs and charges by him about his suit in this behalf expended, to four pence,

Joinder in demurrer.

Judgment for the plaintiff.

Inquiry awarded.

Signed 3 May pence, and for those costs and charges to 6 *d.* Therefore it is considered, that the said *Sylas* do recover against the said *William* his damages aforesaid to 10 *d.* by the inquisition aforesaid in form aforesaid found, and also 9 *l.* 5 *s.* 2 *d.* to the same *Sylas*, at his request, for his costs and charges aforesaid, by the court here of increase adjudged; which said damages in the whole amount to 9 *l.* 6 *s.* And the said *William* in mercy, &c.

This judgment was affirmed on a writ of error.

Moore against Drewry.

Trin. 8 W. 3. K. B.

Avowry by
lessee of te-
nant by *legit*
for damage-
feasant.

Judgment.

Seisin.

*Execution a-
warded on a
scire facias.

Elegit prayed.

13 E. 1. c. 18.

The inquisi-
tion return'd.

AND the said *W.* by *G. L.* his attorney comes and defends the force and injury when, &c. and well avows the taking of the cattle aforesaid in the said place in which, &c. and justly, &c. because he says, that the same places in which the taking of the cattle aforesaid is supposed to be, contain, and at the said time, when the taking of those cattle is supposed to be, did contain in themselves together 90 acres of pasture with the appurtenances in *Market Stanton* aforesaid; and that long before the said time when, &c. to wit, in *Michaelmas* term in the 14th year of the reign of the Lord *Charles* the Second, late King of *England*, &c. the said *Gabriel Leech* in the court of the same late King before the said late King himself (the same court then being at *Westminster*, in the county of *Middlesex*) by the consideration of the same court recovered against one *William Leech*, Gent. 1100 *l.* debt, and 21 *s.* for his damages which he had sustained, as well by reason of the detention of that debt, as for his costs and charges by him about his suit in that behalf expended, whereof the said *W. Leech* is convicted, as by the record and proceedings thereof in the court of the Lord the now King before the King himself here, to wit, at *Westminster* aforesaid remaining more fully is manifest and appears: And the said *W. Drewry* farther says, that after the rendition of that judgment, to wit, on the 22d day of *January* in the 3d year of the reign of the Lord *James* the Second, late King of *England*, &c. the said *W. Leech* was seised of the said places in which, &c. (among others) in his demesne as of freehold for the term of his life; and he being so thereof seised, and the same judgment being in its full force and strength not paid or satisfied, it was in such manner thereon proceeded, that afterwards, to wit, in *Hillary* term in the 3d and 4th year of the reign of the said late King *James* the Second, in the court of the same late King before the late King himself, it was considered by the same court then here, to wit, at *Westminster* aforesaid, that the said *Gabriel* should have execution against the said *W. Leech* for the debt and damages aforesaid by the default of him the said *W. Leech*, as by the record and proceedings thereof in the court here remaining more fully is manifest and appears: And afterwards, to wit, on the 4th day of *July* in the 4th year of the reign of the said late King *James* the Second aforesaid, in the court of the said late King before the late King himself then here, to wit, at *Westminster* aforesaid came the said *Gabriel* in his proper person, and by the statute in such case lately made and provided, chose to be delivered to him all the goods and chattels of the said *W. Leech*, except his oxen and beasts of his plough, and also the one half of all the lands and tenements of the said *W. Leech*; To hold to himself the goods and chattels aforesaid as his own proper goods and chattels, and also to hold the one half aforesaid as his freehold to him and his assigns, according to the form of the statute aforesaid, until he should thereout fully levy the debt and damages aforesaid: Wherefore the sheriff of the county of *Lincoln* was then and there by the same court commanded, that he the said sheriff all the goods and chattels of the said *W. Leech*, except his oxen and beasts of his plough, and also the one half of all the lands and tenements of the same *W. Leech* in his bailiwick, of which the same *W. Leech* at the said time of the rendition of the principal judgment aforesaid, or ever after, was seised in his bailiwick, should without delay cause to be delivered to the said *Gabriel*, by a reasonable price and extent, to hold to himself the goods and chattels aforesaid as his own proper goods and chattels, and also the one half of the lands and tenements aforesaid, as his freehold, to him and his assigns, according to the form of the statute aforesaid, until he should thereout fully levy the debt and damages aforesaid, and how the same sheriff should execute that writ, he should certify to the same late King *James* the Second here, to wit, at *Westminster* aforesaid on *Saturday* next after the *Octave* of *St. Martin* then next ensuing, under the seal, &c. and the seals of them, by whose oath he should make that extent and appraisement, then and there remitting that writ to the same late King: On which day before the late King himself here, to wit, at *Westminster* aforesaid, came the said *Gabriel* in his proper person, and the then sheriff of *Lincoln*, to wit, *Anthony Eyre*, Esq; to the same court then here returned a certain inquisition before him at *L.* in the same county of *Lincoln* on the fifteenth day of *November* in the fourth year of the reign of the late King *James* the Second, by the oath of twelve good

good and lawful men of that county taken, whereby it is found, that the said *W. Leech*, after the rendition of the principal judgment aforesaid, was seised of and in a certain close of land called the *Low Pasture*, and also of and in the said places in which, &c. likewise called the *Low Pastures* and *Colebil*, containing together by estimation 146 acres, the said closes called the *Low Pastures* being 120 acres, parcel thereof, of the clear yearly value in all issues, beside reprises, 48 *l.* and of and in a close, &c. and that those premises are situate, lying and being in *Market Stanton* aforesaid, and of and in a yearly rent of 10 *l.* issuing out of and from certain lands in *Sutton* in the marsh in the county aforesaid, then in the tenure or occupation of one *R. V.* or his assigns, and also of and in a yearly rent of 30 *l.* issuing out of and from certain lands in *F.* in the county aforesaid, then in the tenure or occupation of *R. C.* or his assigns, in his demesne as of freehold for the term of his life; and that the said places in which, &c. and the said close called *E.* and 20 *l.* of the said 30 *l.* issuing out of and from the said lands in *F.* were a true and equal half of all and singular the lands and tenements aforesaid; and that the same sheriff the same half aforesaid on the day of the caption of the inquisition aforesaid to the said *Gabriel Leech*, by a reasonable price and extent, had caused to be delivered, to hold to him and his assigns as his freehold, according to the form of the statute aforesaid, until he should thereout fully levy the debt and damages aforesaid, as that writ commanded and required: And by the inquisition aforesaid it was farther found, that the said *W. Leech* at the time of the rendition of the principal judgment aforesaid had not, nor on the day of the caption of the inquisition aforesaid had any goods or chattels, or any other lands or tenements in the county aforesaid, to the knowledge of the jurors of that inquisition, as by the record and proceedings thereof in the court of the Lord the now King before the King himself remaining more fully is manifest and appears, whereby the said *Gabriel* into the said places in which, &c. with the appurtenances (among others) entred, and was thereof possessed; and being so thereof possessed, the same *Gabriel* afterwards and before the said time when, &c. to wit, on the 2d day of May in the year of the Lord 1695, at *M. S.* aforesaid, demised and to farm let to the said *William Drewry* the said places in which, &c. with the appurtenances (among others); To have and to hold to the same *William Drewry* from the first day of the same month of May unto the end and term of one year from thence next ensuing and fully to be compleat and ended: By virtue of which demise the same *William Drewry* into the same places in which, &c. with the appurtenances, &c. (among others) entred, and was thereof possessed until the end and expiration of that term: And because the cattle aforesaid at the said time when, &c. were in the said places in which, &c. to wit, two rams, 100 wether sheep, and 100 ewe sheep, parcel thereof, being in the said place called *L.* and 18 wether sheep, and 30 ewe sheep, the residue thereof, being in the said place called *C.* eating up the grass there then growing, and doing damage there, the same *William Drewry* well avows the taking of the cattle aforesaid in the said places in which, &c. and justly, &c. so doing damage there; with this, that the said *William Drewry* will verifiy that the said *William Leech* is yet surviving and in full life, to wit, at *M. S.* aforesaid, and that the debt and damages aforesaid to the said *W. L.* are yet unsatisfied, &c.

Entry of tenant by *elegit*, and demise to the avowant.

Distress.

Philip Neve.

Willis and Den.

Hill. 36 & 37 C. 2. Roll 1157.

Kent, to wit. **T** *Thomas Willis*, Bart. lately in the county court of *A. B.* Esq; sheriff of the county aforesaid, held at *Maidstone* in the county aforesaid, complained against *C. D.* in a plea of trespass; which said plea, at the petition of the said *T. W.* was brought here at this day, to wit, from the day of the Holy Trinity, &c. by the writ of the Lord the King of *recordari facias loquelam*: And now on this day comes as well the said *T. W.* by *S. K.* his attorney, as the said *C. D.* by *E. F.* his attorney; and hereupon the same *T. W.* by his attorney aforesaid complains, that, &c.

Count on a *recordari fac* in order to have costs where the damage is under 40 *s.* 22 & 23 C. 2. Rast. Entr. 570. Brownl. 187.

If the defendant in the county pleads freehold, and the plaintiff removes the plaint without cause shewn in the end of the writ, and the plaint only is returned, and not the plea (which is necessary to be done, because the court ought not to take cognisance of a plea under 40 *s.*) *Q.* How to declare ——— to wit, which said plaint at the petition of the said plaintiff, because the defendant in that plaint in the county court aforesaid claimed freehold, is brought here, &c.

5 C

Lambers

Lambert and Thurston, 1 W. & M. — Trespass *quare clausum freg'* — was removed by *recordare*, where the plaintiff declared to his damage 30*s.* Defendant demurred, because the court had not jurisdiction of the cause where damages are under 40*s.* And it was urged for the plaintiff, that the plaintiff had removed this cause, because the defendant had pleaded freehold, and so it is not triable in the county-court. *Co. Lit.* 118. and 2 *Inst.*

Chief justice: It shall be intended that this action was originally in this court, because it is *with force and arms*, which cannot be in a declaration in the county-court; and where it is removed, the declaration ought to be without *with force and arms*.

Mead and another at the suit of Maidwell, Esq;

Abatement,
that the tak-
ing was in
another place.

Traverse.

Cognisance as
bailiffs to J.
H. for da-
mage feasant.

Seisin in fee.

Demise to
J. H.

Entry.

Distress.

Issue on the
traverse.

AND the said *John* and *Aaron* by *Thomas Roberts* their attorney come and defend the force and injury when, &c. and pray judgment of the declaration aforesaid, because they say, they took the sheep aforesaid, at *Geddington* aforesaid, in a certain place called *Brook Furlong*, in a certain parcel thereof, containing by estimation 3 acres of land; which said place called *Brook Furlong*, whereof, &c. is, and for time immemorial was, parcel of a certain great field called *Mill-field* in *Geddington* aforesaid, containing by estimation 100 acres; without that, that they took the sheep aforesaid in the said place called *Kettering Blake*, as the said *Thomas* by his declaration aforesaid above supposes: And this they are ready to verify: Wherefore they pray judgment of that declaration, &c. and to have a return of the sheep aforesaid, the same *John* and *Aaron*, as bailiffs of one *John Hemes*, well acknowledge the taking of the sheep aforesaid in the said 3 acres of land in the said place called *Brook Furlong*, and justly, &c. because they say, that long before the said time when, &c. to wit, on the last day of *March* in the year of the Lord 1703, and always from thence afterwards hitherto, one *Cesar Child*, Bart. was and yet is seised of and in the said 3 acres of land in which they took the sheep aforesaid, in his demesne as of fee; and being so thereof seised, he the said *Cesar Child* before the said time when, &c. to wit, the same day and year aforesaid, at *G.* aforesaid, demised to the said *John Hemes* (among others) the said 3 acres of land with the appurtenances; To have and to hold to the said *John Hemes* from the feast-day of the Annunciation of the Blessed Virgin *Mary* then last past unto the full end and term of 3 years thence next ensuing and fully to be compleat and ended, and from thence from year to year as long as both parties should please, at and under a certain yearly rent between them agreed to be paid: By virtue of which said demise the said *John Hemes* afterwards and before the said time when, &c. into the said 3 acres of land in which, &c. above demised entred, and always from thence afterwards hitherto was and yet is thereof possessed at the will of the said *Cesar Child* and *John Hemes*: And because the sheep aforesaid at the said time when, &c. were in the said 3 acres of land, parcel of the said place called *Brook Furlong*, eating up the grafs there then growing, and doing damage there, the same *John Mead* and *Aaron*, as bailiffs of the said *John Hemes*, well acknowledge the taking of the sheep aforesaid in the said 3 acres of land in the said place called *Brook Furlong*, and justly, &c. so doing damage there, &c.

And the said *Thomas Maidwell* says, that his declaration aforesaid for the reason before alledged ought not to be quashed, because he says, that the said *John* and *Aaron* took the sheep aforesaid in the said place called *Kettering Blake*, as he hath above declared: And this he prays may be inquired of by the country: And the said *John* and *Aaron* likewise, &c. Therefore the sheriff is commanded, that he cause to come here from the day of the Holy Trinity in three weeks 12, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. The same day is given to the parties, &c.

Astill against Clarke.

Cognisance
for damage-
feasant.

AND the said *William* and *Robert* by *Thomas Pryor* their attorney come and defend the force and injury when, &c. and as bailiffs of *Daniel Earl of Nottingham* well acknowledge the taking of the sheep aforesaid in the said place in which, &c. and justly, &c. because they say, that the said place, in which the taking of the sheep aforesaid is supposed to be, is and at the said time when, &c. was the soil and freehold of him the said *Daniel Earl of Nottingham*: And because the sheep aforesaid at the said time when, &c. was in the said place in which, &c. eating up the grafs there then growing, and doing damage to the said Earl there, the same *William* and *Robert*, as bailiffs of the said Earl, and by his command at the said time when, &c. well acknowledge the taking of the sheep aforesaid in the said place in which, &c. and justly, &c. so doing damage there, &c.

And

And the said *John Astill* says, that the said *William Clarke* the younger and *Robert Varnbam* for the reason before alledged, as bailiffs of the said *Daniel Earl of Nottingham*, the taking of the sheep aforesaid in the said place in which, &c. ought not to acknowledge just, because he says, that long before the said Earl of *Nottingham* had any thing in the said place in which, &c. the Lady *Elizabeth*, late Queen of *England*, was seised in her demesne place in the right of her Dutchy of *Lancaster* of and in the manor of *Daventree* in the said county of *North'ton* with the appurtenances, whereof the said place in which, &c. then was parcel; and being so thereof seised, she the said Lady *Q. Elizabeth* on the 26th day of *March* in the 18th year of her reign, by her letters patent under the great seal of *England* sealed, bearing date at *Westminster* the said 26th day of *March* in the 18th year of her reign above said, of her special grace for herself, her heirs and successors, gave and granted to the bailiff, burgeses and commonalty of the borough of *Daventree* in the county of *North'ton*, and their successors, that they from thenceforth for ever should have and hold, and might have and hold within the borough aforesaid, the precincts and liberties of the same, two markets or fairs yearly to be held and kept there, to wit, one fair on the *Tuesday* next after the feast of *Easter* continually for two days from thence next ensuing to continue, and one fair on the day of *St. Matthew* the Apostle, and continually for two days from thence next ensuing likewise to continue, together with a court of pie-powder, and with all profits, commodities and emoluments whatever from such markets or fairs coming, happening, arising or contingent, and with all liberties and free customs to such markets or fairs belonging or appertaining, as by the letters patent aforesaid, which the same *John* sealed under the great seal of *England* here in court produces, more fully appears: By virtue of which said grant the said bailiff, burgeses and commonalty of the borough of *Daventree* aforesaid, and their successors, were seised, and yet are seised, as of fee and right, in the right of their corporation aforesaid, of and in a fair yearly to be held in the said place, in which, &c. called the *Higb-street*, being within the borough of *Daventree* aforesaid, on the said *Tuesday* next after the feast of *Easter*, and continually for two days from thence next ensuing, and of and in another fair yearly there to be held on the day of *St. Matthew* the Apostle, and continually for two days from thence next ensuing, with all liberties and free-customs to such fairs belonging: And the same *John* farther says, that at a fair held in the said place in which, &c. within the borough of *Daventree* aforesaid, on the said 14th day of *April* in the 8th year of the reign of the Lord the now King above said, being *Tuesday* next after the feast of *Easter* last past, he the said *John* then and there in the said place in which, &c. called the *Higb-street* within the borough of *Daventree* aforesaid, in full and open fair there bought of a certain person unknown the sheep aforesaid, and the customary toll for sheep in that fair bought, payable then and there to the said bailiff, burgeses and commonalty of the borough of *Daventree* aforesaid paid; whereupon the sheep aforesaid then and there in the custody of him the said *John* lawfully being, they the said *William* and *Robert* that sheep of him the said *John* in the said place in which, &c. in that fair then took and unjustly detained, in manner and form as the same *John* above against them complains: And this the same *John* is ready to verify: Wherefore for that the said *William* and *Robert* the taking of the sheep aforesaid above acknowledge, the same *John* prays judgment, and his damages by reason of the taking and unjust detention of that sheep, to be adjudged to him, &c.

And the said *Robert Varnbam* and *William Clarke* say, that the plea aforesaid of the said *John Astill* above in bar to the cognisance aforesaid pleaded is not sufficient in law to preclude them the said *William* and *Robert*, as bailiffs of the said *Daniel Earl of Nottingham*, from justly acknowledging the taking of the sheep aforesaid in the said place in which, &c. and that they to that plea in manner and form aforesaid pleaded have no necessity, nor are by the law of the land obliged, to answer: And this they are ready to verify: Wherefore for want of a sufficient plea of the said *John* in this behalf, the same *William* and *Robert* pray judgment, and a return of the sheep aforesaid, together with their damages, &c. to be adjudged to them, &c.

And the said *John*, for that he hath above alledged sufficient matter in law for him the said *John* to maintain his action aforesaid against the said *William* and *Robert* had, which said matter the said *William* and *Robert* do not deny, nor in any wise answer to it, but altogether refuse to admit that averment, prays judgment, and his damages by reason of the taking and unjust detention of the sheep aforesaid, to be adjudged to him, &c. And because, &c.

In this case the question was, Whether the grant under the great seal of a privilege in dutchy lands out of a dutchy, were good? Or whether it ought not to have been under the dutchy seal? And after great deliberation the court gave judgment for the plaintiff, that it was.

Frogat

Frogat and Marryot.

That they took the cattle in *A.* and traverse the taking in *B.* and for a return avow for damage-sea-sant.

1 Vern. 127.
That it is not traversable.

AND the said *T. M. A. W. T. R. A. H.* and *J. M.* by *John Lilly* their attorney come and defend the force and injury when, *Ec.* and say, that they took the cattle aforesaid at *Bradfield* in the parish of *Ecclesfield* in the county of *York*, in a certain place there called *Mosker*; without that, that they took the cattle aforesaid at the parish of *Katberfedge* in the said county of *Derby*, as the said *John* by his declaration aforesaid hath above supposed: And this they are ready to verify: Wherefore they pray judgment of that declaration, *Ec.* and to have a return of the cattle aforesaid, the same *Thomas, Ec.* in their own right well avow, and the said *Joseph*, as bailiff of them the said *Thomas, Ec.* well acknowledges the taking of the cattle aforesaid, at *Bradfield* aforesaid in the parish of *Ecclesfield* aforesaid in the county of *York* aforesaid, in the said place there called *Mosker*, and justly, *Ec.* because they say, that the same place called *Mosker* contains, and at the said time, when the taking of the cattle aforesaid is supposed to be, did contain in itself 50 acres of pasture with the appurtenances in *Bradfield* in the parish of *Ecclesfield* aforesaid in the county of *York* aforesaid; which said 50 acres of pasture with the appurtenances are, and at the said time when, *Ec.* were, the soil and freehold of the said *Thomas, Ec.* And because the cattle aforesaid at the said time when, *Ec.* were in the same place called *Mosker*, in the parish of *Ecclesfield* aforesaid, eating up the grass there then growing, and doing damage there, the same *Thomas, Ec.* in their own right well avow, and the said *Joseph*, as bailiff of them the said *Thomas, Ec.* well acknowledges the taking of the cattle aforesaid in the said place called *Mosker* in *Bradfield* in the parish of *Ecclesfield* aforesaid, and justly, *Ec.* so doing damage there, *Ec.*

L. Agar.

Issue on the traverse.

And the said *John Frogat* says, that the declaration aforesaid by any thing before alledged ought not to be quashed, because he says, that the said *T. M. Ec.* took the cattle aforesaid at the said parish of *H.* in the county of *Derby* aforesaid, to wit, in the said place called *Mosker*, in the declaration of him in the said *John Frogat* above mentioned, as he the same *John* above thereof against them complains: And this he prays may be inquired of by the country: And the said *T. M. Ec.* thereof likewise: Therefore the sheriff is commanded, that he cause to come before the Lord the King on the Octave of the Purification of the Blessed *Mary* wheresoever, *Ec.* 12, *Ec.* by whom, *Ec.* and who neither, *Ec.* to recognize, *Ec.* because as well, *Ec.* The same day is given to the parties aforesaid, *Ec.*

Rescous.

Rescous.

Burnham against Goodman.

EDWARD Goodman late of Staverton in the county aforesaid, yeoman, was attached to answer to Dorothy Burnham, widow, in a plea, why whereas the same Dorothy in her fee, at Staverton in the county aforesaid, for rent to her due by R.G. her servant, had caused to be taken one cow, and that cow, according to the law and custom of the kingdom of England, had there impounded, the said Edward that pound with force and arms broke, and the cow aforesaid from thence took and carried away, and other injuries to the same Dorothy did, to the great damage of her the said Dorothy, and against the peace of the Lord the now King, &c. And whereon the same Dorothy by J.B. her attorney complains, that whereas certain tenements, to wit, one messuage and one yard-land with the appurtenances in Staverton aforesaid were held by one T.M. of one W.B. by the yearly rent of 3s. at the feast of St. Michael the Archangel yearly to be paid, of which said rent the same W.B. was seised by the hands of the said T.M. as by the hands of his very tenant; and being so thereof seised, the same William at Staverton aforesaid made his last will and testament in writing, and by the same his last will gave and devised to the said Dorothy the rent aforesaid (among others); To have and to hold to the said Dorothy for the term of her life, and afterwards at Staverton aforesaid died of the rent aforesaid so as aforesaid seised; after whose death she the same Dorothy was seised of the rent aforesaid, in her demesne as of freehold, for the term of her life, by virtue of the devise aforesaid; and so being thereof seised, the same Dorothy afterwards, to wit, on the 27th day of October in the year of the Lord 1698, in two roods of land, parcel of the said messuage and yard-land, at Staverton aforesaid, for the yearly rent aforesaid for four years, at the feast of St. Michael the Archangel then last past, being to the same Dorothy in arrear and unpaid, by the said Richard Grooby her servant had caused the cow aforesaid to be taken, and according to the law and custom of this kingdom of England had there impounded; and the said Edward that pound afterwards, to wit, the same 27th day of October in the year of the Lord 1698 aforesaid, at Staverton aforesaid, with force and arms, &c. broke, and that cow from thence took and carried away, and other injuries, &c. to the great damage, &c. and against the peace, &c. whereby she says that she is prejudiced, and hath damage to the value of 20l. And therefore she produces the suit, &c.

Declaration
on a rescous of
a distress for a
rent by pre-
scription.
1 Ven. 2.
4 Mod. 231.
Lutw. 213.

Scire Facias.

Lloyd and Campbell.

Error by the bail, as well on the judgment against the principal as on the award of execution against them. Which will not lie. Hob. 72. Cro. Jac. 384. Lev. 137. 1 Ven. 38, 169.

England, to wit.

THE Lady the Queen hath sent to her trusty and beloved *Thomas Trevor*, Knt. her chief justice of the Bench, her writ close in these words, to wit, *Anne, &c.* To her trusty and beloved *Thomas Trevor*, Knt. her chief justice of the Bench, greeting: Because in the record and proceedings, and also in the rendition of the judgment of a plea which was in our court before you and your companions, our justices of the Bench, by our writ between *Thomas Lloyd* and *Colen Campbell*, late of *London*, merchant, as well for a debt of 120*l.* which the same *Thomas* demanded of the said *Colen*, as 12*l.* 10*s.* which to the said *Thomas* in our said court were adjudged for his damages which he had by reason of the detention of that debt whereof he was convicted, and likewise in the adjudication of execution of a certain judgment on our writ of *scire facias* issuing out of our same court at the suit of the said *Thomas* against *Alexander Hamilton*, late of *London*, merchant, and *J. Campbell*, late of *London*, bookseller, the bail of the said *Colen* in the plea aforesaid of the debt and damages aforesaid, as it is said, a manifest error hath happened, to the great damage of them the said *Alexander* and *James*, as by their complaint we have understood: We willing the error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, command you, that if judgment in the plea aforesaid be given, and adjudication of execution of the judgment on our said writ of *scire facias* be adjudged, then the record and proceedings aforesaid, with all things touching them to us under your seal, you distinctly and openly send, and this writ, so that we may have them on the Octave of *St. Martin* wheresoever we shall then be in *England*, that the record and proceedings aforesaid being inspected, we may farther cause to be done therein, to correct that error, what of right and according to the law and custom of our kingdom of *England* shall be to be done. Witness Ourself at *Westminster* 29th day of *October* in the 5th year of our reign.

Cesar.

The answer of Thomas Trevor, Knt. the chief justice within named:

The record and proceedings of the plea, whereof mention is within made, with all things touching them, before the Lady the Queen wheresoever, &c. at the day within contained, I send in a certain record to this writ annexed, as I am within commanded.

Tho. Trevor.

Plus

Pleas inrolled at Westminster before Thomas Trevor, Knt. and his companions, justices of the Lady the Queen of the Bench of Hillary term in the 4th year of the reign of the Lady Anne, by the grace of God of England, Scotland, France and Ireland Queen, defender of the faith, &c. Roll 430.

Midd., to wit. **C**olen Campbell late of London, merchant, otherwise called Colen Campbell Debt on bond. late of Newfoundland, merchant, now in London, was summoned to answer to Thomas Lloyd, Esq; in a plea, that he render to him 120*l.* which he owes him and unjustly detains, &c. And whereon the same Thomas by J. B. his attorney says, that whereas the said Colen on the 2d day of July in the 4th year of the reign of the Lady the now Queen, at Westminster in the county aforesaid, by his certain writing obligatory, acknowledged himself to be bound to the same Thomas in the said 120*l.* to be paid to the same Thomas, when he should be thereto required: Nevertheless the said Colen, altho' often required, the said 120*l.* to the same Thomas hath not yet paid, but hath hitherto refused to pay him them, and yet doth refuse; whereby he says that he is prejudiced, and hath damage to the value of 100*l.* And therefore he produces the suit, &c. And he produces here in court the writing aforesaid, which the debt aforesaid in form aforesaid testifies, the date whereof is the day and year above said, &c.

When, &c. and says, that he ought not to be charged with the debt aforesaid, by virtue Not his deed. of the writing aforesaid, because he says, that that writing is not his deed: And of this he puts himself on the country: And the Thomas likewise: Therefore the sheriff is commanded, that he cause to come here on the Octave of the Purification of the Blessed Mary 12, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. The same day is given to the parties aforesaid, &c. On which day the jury between the parties *Jurata.* aforesaid in the plea aforesaid was put thereof between them in respite here until this day, to wit, from the day of Easter in 15 days then next ensuing, unless Thomas Trevor, Knt. chief justice of the Lady the Queen of the Bench here assigned, by form of the statute, 18 El. c. 12; &c. on Wednesday the 13th day of February last past, at Westminster in the great hall there, 12 Geo. c. 31; commonly called Westminster-hall, in the county aforesaid, should first come: And now here at this day comes the said Thomas by his attorney aforesaid; and the said chief justice before, &c. hath sent here his record in these words: Afterwards the day and place within *Postea:* contained, before T. Trevor, Knt. chief justice of the Lady the Queen of the Bench, A. B. Gent. being associate to him, by the form of the statute, &c. comes the within named Thomas Lloyd by his attorney within contained; and the within written Colen Campbell, altho' solemnly called, doth not come, but hath made default: Therefore the jury, whereof mention is within made, is taken against him by default; and the jurors of that jury being called, some of them, to wit, F. P. R. H. J. M. J. B. T. N. J. A. and T. P. come, and on that jury are sworn; and because the rest of the jurors of that jury have not appeared, *Tales:* therefore others from the by-standers, by the sheriff of the county of Middlesex within written hereto elected, at the request of the said Thomas Lloyd, and by the command of the chief justice aforesaid, are added anew, whose names to the panel within written are annexed, according to the form of the statute in such case lately made and provided: And 35 H. 8. c. 6. the jurors so added anew, to wit, R. L. T. M. J. O. B. T. and R. M. being called likewise come, who to say the truth of the within contained, together with the other jurors aforesaid first impanelled and sworn, being elected, tried and sworn, say on their oath, that the Verdict. writing within specified is the deed of the said Colen, in manner and form as the said Thomas hath within against him declared; and they assess the damages of him the said Thomas, by reason of the detention of the debt within written, besides his costs and charges by him about his suit in this behalf sustained, to 12*d.* and for those costs and charges to 20*s.* Therefore it is considered, that the said Thomas do recover against the said Colen his debt Judgment. aforesaid, and his damages aforesaid, to 21*s.* by the jurors aforesaid in form aforesaid assessed, and also 11*l.* 9*s.* to the same Thomas, at his request, for his costs and charges aforesaid, by the court here of increase adjudged; which said damages in the whole amount to 12*l.* 10*s.* And let the said Colen, because he hath denied his deed, be taken, &c. *Capiatur.*

Pleas inrolled at Westminster before Thomas Trevor, Knt. and his companions, justices of the Lady the Queen of the Bench of Trinity term in the 5th year of the reign of the Lady Anne, by the grace of God of England, Scotland, France and Ireland Queen, defender of the faith, &c. Roll 430.

The entry of the judgment on the recognisance against the bail. *Midd^s, to wit.* **T**HE sheriff of *Middlesex* was commanded, whereas *Alexander Hamilton*, late of *Dowgate-hill, London*, merchant, and *James Campbell*, late of *Fann Court in Fenchurch-street, London*, bookseller, late in the court of the Lady the Queen here, to wit, in *Michaelmas* term in the 4th year of the reign of the said Lady the now Queen, before *Thomas Trevor*, Knt. and his companions, justices of the said Lady the Queen of the Bench here, to wit, at *Westminster* acknowledged, and each of them acknowledged, they owed to *Thomas Lloyd* the sum of 240*l.* which said sum of 240*l.* the same *Alexander* and *James* for themselves and their heirs agreed and granted, and each of them for himself and his heirs did agree and grant, should be raised and levied out of their and each of their lands and chattels, to the use and behoof of the same *Thomas Lloyd*, on this condition, that if it should happen that judgment should be given for the said *Thomas Lloyd* against *Colen Campbell*, late of *London*, merchant, in a certain plea of debt on a demand of 120*l.* by the said *Thomas Lloyd*, against the said *Colen* in the same court here prosecuted, then the same *Colen* the said debt of 120*l.* and also all damages which to the said *Thomas Lloyd*, by reason of the detention of that debt in the same court here should be adjudged, should satisfy, or his body in execution of that judgment to the prison of the *Fleet* should render: And altho' the said *Thomas Lloyd* in *Easter* term in the 5th year of the reign of the said Lady the now Queen, before the said *Thomas Trevor*, Knt. and his companions, justices of the said Lady the Queen of the Bench here; to wit, at *Westminster* aforesaid, by the consideration of the same court had recovered against the said *Colen* as well the said 120*l.* as 12*l.* 10*s.* which to the same *Thomas Lloyd* in the same court of the said Lady the Queen were adjudged for his damages which he had by reason of the detention of that debt whereof he is convicted, as by the record and proceedings thereof in the same court of the said Lady the Queen remaining manifestly appears: Nevertheless the said *Colen* the debt and damages aforesaid to the said *Thomas Lloyd* hath not satisfied, nor his body in execution of such judgment to the said prison of the *Fleet* hath not render'd, as by the suggestion of the said *Thomas Lloyd* the Queen had understood; and because, &c. that by good, &c. he should give notice to the said *Alexander* and *James*, that they should be before the said justices of the said Lady the Queen at *Westminster* on the morrow of the Holy Trinity, to shew if, &c. to wit, to the said *Alexander*, why the said 240*l.* by him in form aforesaid acknowledged, out of his lands and chattels ought not to be raised, and to the said *James*, why the said 240*l.* by him in form aforesaid acknowledged, out of his lands and chattels ought not to be raised, and to the use and behoof of the same *Thomas Lloyd* levied, according to the form of the recognisance aforesaid, if, &c. And now here at this day, to wit, the said morrow of the Holy Trinity comes the said *Thomas Lloyd* by *J. D.* his attorney, and hath offer'd himself on the 4th day against the said *Alexander* and *James* in the plea aforesaid; and they being solemnly called have not come: And the sheriff, to wit, *C. T.* Knt. and *S. S.* Knt. now returns, that they have nothing, nor hath either of them any thing, &c. neither are they found, nor is either of them found, &c. Therefore as before the sheriff is commanded, that by good, &c. he give notice to the said *Alexander* and *James*, that they be here from the day of the Holy Trinity in three weeks, to shew in form aforesaid, &c. On which day here comes as well the said *Thomas Lloyd* by his attorney aforesaid, as the said *Alexander* and *James* by *E. H.* their attorney; and the sheriff, to wit, the said *C. T.* Knt. and *S. S.* Knt. as before, now return, that they have nothing, nor hath either of them any thing, neither are they found, nor is either of them found, &c. And upon this the said *Thomas Lloyd* prays execution against the said *Alexander* for the said 240*l.* by him in form aforesaid acknowledged, and against the said *James* for the said 240*l.* by him in form aforesaid acknowledged, according to the form of the recognisance aforesaid, to be adjudged to him, &c.

The condition.

Judgment against the principal.

Breach.

Scire facias.

Nilil return'd.

Second scire facias.

Nilil return'd.

Judgment by nilil dicit.

And the said *Alexander* and *James* by their attorney aforesaid come and defend the force and injury when, &c. and say nothing in bar or preclusion of the execution aforesaid, whereby the same *Thomas* remains against the said *Alexander* and *James* therein undefended: Therefore it is considered, that the said *Thomas* have execution against the said *Alexander* and *James* of the said several sums of 240*l.* of their and each of their lands and chattels respectively to be levied, according to the form and effect of the recognisance aforesaid.

Grice and Leigh.

Mich. 12 W. 3. Roll 77, 78.

William, &c. To the Sheriff of Surry, greeting: Whereas Denbam Hunlocke, merchant taylor, lately in the court of the Lord Charles the Second, late King of England, &c. before the said late King himself at Westminster by bill, without the writ of the same late King, and by the judgment of the same court, hath recovered against Thomas Leigh, Bart. son and heir of Wolley Leigh, Esq; then lately deceased, then otherwise lately called Wolley Leigh of Thorpe in the county of Surry, Esq; 300 l. debt, and also 50 s. as well for his damages which he had sustained by reason of the detention of that debt, as for his costs and charges by him about his suit in that behalf expended, of 4 messuages and 17 acres and 2 roods of land with the appurtenances in Thorpe and Puttenbam in your county, and one messuage with the appurtenances in East Wickbam in the county of Kent, to be levied, and of the reversion of the manor of Hall-place with the appurtenances, and 5 messuages, 6 cottages, 2 dove-houses, 3 gardens, 3 orchards, 650 acres of land, 200 acres of meadow, 500 acres of pasture, 100 acres of wood, 300 acres of heath and furze, 200 acres of moor, and 50 s. rent, with the appurtenances in Thorpe, Cbertsey and Eggham, in your county aforesaid, and the rectory of Thorpe with the appurtenances, and the moiety of the manor of Sholand with the appurtenances, and one messuage, one dove-house, 100 acres of land, 40 acres of meadow, 100 acres of pasture, 20 acres of wood, and 50 acres of heath and furze in Puttenbam, Elsted Seal and Tongbam in your county aforesaid, when it shall happen; which said manor, rectory, tenements and moiety with the appurtenances, John Lowber, Bart. and Elizabeth his wife, who was the wife of the said Wolley, then held for the term of the life of the said Elizabeth, in the right of the said Elizabeth, and the reversion of the manor of Staines with the appurtenances, and one cottage, one parcel of land, containing 28 feet in breadth and 83 feet in length, and another parcel of land, containing in length 24 feet with the appurtenances in Staines in the county of Middlesex, and one messuage, and 16 acres of meadow with the appurtenances in Addington in your county aforesaid, and the yearly rent of 11 l. issuing out of one mill, one messuage, and two acres of meadow in Staines aforesaid in the said county of Middlesex, and of the fair and market in Staines aforesaid, to be held, and of the sum or pension of 2 s. issuing out of the vicarage of Staines aforesaid, after the expiration of the term of 99 years, commencing from 17th day of May in the year of the Lord 1636, thereof granted to one William Drake, Esq; by the said Wolley in his life-time, under the yearly rent of a pepper corn, by a certain indenture made at Staines aforesaid on the same 17th day of May in the year of the Lord 1636 aforesaid, between the said Wolley of the one part, and the said William Drake of the other part, bearing date the same day and year, by him the said Denbam demanded, to be levied when it should happen: And whereas as well the said Denbam as the said Thomas Leigh are dead, and the said Elizabeth, the wife of his said John Lowber, Bart. hath survived them, and the said Denbam and Thorpe aforesaid in your county hath made his last will and testament in writing, and by the same will constituted Francis Hunlocke and Isabel Walmsley executors thereof, and afterwards there died (the debt and damages aforesaid, or any part thereof, being not satisfied) and afterwards the said Francis Hunlocke there died; after whose death the said Isabel took upon herself the burden of the execution of the will of the said Denbam, and that will in due form of law proved; and afterwards the same Isabel there made her last will and testament in writing, and by the same constituted Sarab Grice, widow, executrix thereof, and afterwards there died (the debt and damages aforesaid, or any part thereof, being not satisfied); and now on the behalf of the said Sarab Grice, we have in our court before us understood, that altho' judgment in form aforesaid be given, yet execution for the debt and damages aforesaid still remains to be executed; wherefore the same Sarab hath beseeched us to grant her a proper remedy in this behalf, and we being willing that what is just in this behalf should be done, command you, that by good and lawful men of your bailiwick you give notice to the heir and tenants of the manor of Hall-place with the appurtenances, and of the said moiety of the manor of Sholand with the appurtenances, and of the said rectory of Thorpe aforesaid with the appurtenances, and of the said messuages, lands and tenements, and other the premises in Thorpe, Cbertsey, Eggham, Puttenbam, Elsted Seale and Tongbam aforesaid, with the appurtenances in your county aforesaid, that they be before us at Westminster on day

Scire facias
against an heir
on a recovery
against him
to be levied
when the re-
version hap-
pened.

The premises
held for life.

The premises
held for 99
years.

Death of the
plaintiff in the
judgment.

Death of the
executrix, who
had made
plaintiff her
executrix.

To shew why the premises should not be delivered to the plaintiff to hold as her freehold until, &c.

next after to shew if they have or can say any thing for themselves, why the said manor of *Hall-place* with the appurtenances, and the said moiety of the manor of *Sboland* with the appurtenances, and the said rectory of *Tborpe* with the appurtenances, and the said messuages, lands and tenements, and other the premises in *Tborpe*, *Chertsey*, *Egbam*, *Puttenham*, *Elsted Seal* and *Tongbam* afore said with the appurtenances, ought not to be delivered to the said *Sarab Grice*, to hold to the same *Sarab* and her assigns as her freehold until she shall have thereout fully levied the debt and damages afore said, according to the form and effect of the recovery afore said, if they shall think fit, and farther to do and receive what our same court before us shall then and there consider concerning them in this behalf, and have there then the names of those by whom you shall give them notice, and this writ. Witnesses, &c.

The return.

On which day before the Lord the King at *Westminster* comes the said *S. G.* widow, by *John Lilly* her attorney; and the sheriff of the county of *S.* to wit, *L. W.* Esq; by virtue of the writ afore said to him directed returns, that by virtue of the writ afore said to him directed, by *G. Horne* and *John Doe*, good and lawful men of his bailiwick, he hath given notice to *H. Bartholomew*, tenant of 2 malt-houses with the appurtenances, 200 acres of land, 50 acres of meadow, and 50 acres of pasture with the appurtenances, situate, lying and being in the parish of *Egbam* and *Tborpe* in his county, and also of the rectory of *Tborpe* with the appurtenances in the parish of *Tborpe* in his county, parcel of the lands and tenements in the writ to this schedule annexed mentioned; and also to *Maurice Bailey*, tenant of one messuage with the appurtenances, 100 acres of land, 50 acres of meadow, and 50 acres of pasture with the appurtenances in *Tborpe* afore said, being other parcel of the lands and tenements in the said writ to this schedule likewise annexed mentioned, and also to *H. Ward* the younger, tenant of one close of land called *Buridge*, containing 14 acres of land, and also of 2 acres of meadow, and of 2 closes of land called *Grenneys*, containing 26 acres of land lying and being in *Chertsey* and *Tborpe* in his county afore said, being other parcel of the lands and tenements in the said writ to this schedule likewise annexed mentioned, that they should be before the Lord the King at the day and place in the writ to this schedule annexed mentioned, to shew as in the writ afore said is contained, and farther to do and receive as the writ afore said commands and requires: And he farther certifies, that there are no other heirs, neither is there any other heir, nor are there any other tenants, neither is there any other tenant of the said lands and tenements in the writ afore said mentioned in his bailiwick, to whom he can give notice, as he is within commanded; and hereupon the same *Sarab* produces here in court as well the letters testamentary of the said *Denham Hunlocke*, as the letters testamentary of the said *Isabel*, whereby it sufficiently appears to the court here, that she the said *Sarab* is executrix of the said will of the said *Isabel*, and thereof hath the administration, &c. and that she the said *Isabel* was one of the executors of the will of the said *Denham*, and thereof had the administration, &c. And the same *Sarab* prays execution against the said *Maurice Bailey*, &c. for the debt and damages afore said of the lands and tenements afore said with the appurtenances, whereof they are as afore said returned tenants, according to the recovery afore said to be levied; to be adjudged to her, &c. And they on the same day being solemnly called by *J. S.* their attorney come, and the said *Maurice Bailey* says, that the said *Sarab* ought not to have her execution against him for the debt and damages afore said of the lands and tenements in the return of the said writ of *scire facias* mentioned, whereof he is returned tenant; and the said *Maurice* prays judgment of the said writ of *scire facias*, because he says, that that writ is in itself vitious, and not issued in the form in such case by the law of this realm required, for this, to wit, that the sheriff of the county of *Surry* afore said is by that writ commanded, that he should give notice to the tenants of the lands and tenements in that writ specified, that they be in the court here on the day in the same writ contained, to shew what they have or can say for themselves, why the lands and tenements in the same writ specified ought not to be delivered to *Sarab Grice* in the same writ mentioned, to hold to the same *Sarab Grice* and her assigns as her freehold, until she shall have thereout fully levied the debt and damages in the same writ specified, when by law the said words, *as her freehold*, ought to be omitted, and not inserted: And this he is ready to verify: Wherefore he prays judgment of the writ afore said, and that that writ may be quashed.

The wills produced.

Execution prayed.

Defendants appear.

Abatement by one tenant for want of form.

Demurrer.

And the said *Sarab* says, that by any thing by the said *Maurice Bailey* above in pleading pleaded, her writ of *scire facias* afore said ought not to be quashed, because she says, that that plea, and the matter in the same contained, are not sufficient in law to quash that writ, or to delay her the said *Sarab Grice* from having her execution afore said against him the said *Maurice Bailey* for the debt and damages afore said of the lands and tenements afore said with the appurtenances, whereof he is as afore said returned tenant; and that she to that plea in manner and form afore said pleaded hath no necessity, nor is by the law of the land obliged in any manner to answer: And this she is ready

to verify: Wherefore for want of a sufficient plea in this behalf the same *Sarab* prays judgment, and that her writ aforesaid may be adjudged good, &c.

And the said *Maurice Bailey*, for that he hath above alledged sufficient matter in law to Joinder. preclude the said *Sarab* from having her execution aforesaid against him the said *Maurice* for the debt and damages aforesaid of the lands and tenements aforesaid with the appurtenances, whereof he is as aforesaid returned tenant, which he is ready to verify; which said matter the said *Sarab* doth not deny, nor thereto in any wise answer, but doth altogether refuse to admit that averment, as before prays judgment, and that she the said *Sarab* Grice may be precluded from having her execution aforesaid against him for the debt and damages aforesaid of those lands and tenements: And because the court of the said Lord the King now here are not yet advised to give their judgment of and upon the premisses, day therefore is given to the parties aforesaid before the Lord the King at *Westminster* until *Thursday* next after the Octave of *St. Hillary* to hear their judgment thereon, because the court of the said Lord the King now here thereof not yet, &c.

And the said *Henry* prays judgment of the said writ of *scire facias*, because he says, that the said *Thomas Leigh* in the said writ mentioned, at the time of his death had issue of his body *John Leigh*, Knt. his first begotten son and heir; and the same *John Leigh*, Knt. the son and heir of the said *Thomas Leigh*, had issue of his body *John Leigh*, Esq; his first begotten son and heir, and afterwards before the issuing of the said writ of *scire facias* died; which said *John Leigh*, the son of the said *John Leigh*, Knt. and grandson and heir of the said *Thomas Leigh*, in the writ aforesaid named, is now surviving and in full life, to wit, at *Thorpe* aforesaid in the county of *Surry* aforesaid, and at the time of the issuing of the writ of *scire facias* aforesaid was seised and yet is seised in his demesne as of fee of divers parcels of the tenements in the writ aforesaid specified: And this he is ready to verify; Wherefore for that the said *John Leigh*, Esq; the grandson and heir of the said *Thomas Leigh*, is not named in the writ aforesaid, nor the sheriff aforesaid commanded by the writ aforesaid to summon the heir of the said *Thomas Leigh*, the same *Henry* prays judgment of that writ so against him issued, and that that writ may be quashed, &c.

The other pleads, that the heir is not named in the writ.

And the said *Sarab* (demurrer and joinder in demurrer as before to *Bailey's plea*.)

And the said *John Leigh*, grandson and heir of the said *Thomas Leigh*, in the writ aforesaid mentioned, to wit, son and heir of *John Leigh*, Knt. deceased, son and heir of the said *Thomas Leigh*, Knt. deceased, by C. S. his guardian comes and says, that the said *John Leigh*, Knt. father of him the said *John Leigh*, whose heir as aforesaid he is, after the judgment aforesaid in the writ aforesaid specified was given, was seised of the premisses aforesaid in the writ and return aforesaid specified, with the appurtenances, in his demesne as of fee, and of such estate therein at *Thorpe* aforesaid died seised; after whose death the tenements aforesaid with the appurtenances descended to the same *John*, as son and heir of the said *John Leigh*, Knt. and the same *John* by reason of that descent into those tenements with the appurtenances hath entred, and is thereof seised in his demesne as of fee; and he says that he is under the age of 21 years, to wit, of the age of 18 years and 3 months, and no more: And this he is ready to verify: Wherefore he doth not suppose that the said *Sarab* ought to be answered during his minority, and prays that the plea may remain until the full age of the same *John*.

The heir pleads in fancy.

And the said *Sarab* says, that by any thing by him the said *John* above pleaded her plea aforesaid ought not to remain over, because she says, that the plea aforesaid by him the said *John Leigh* above in delay of her plea aforesaid pleaded, and the matter in the same contained, are not sufficient in law to preclude her the said *Sarab* from having her execution aforesaid for the debt and damages aforesaid of the lands and tenements aforesaid, so as aforesaid returned, until, &c. And this the same *Sarab* is ready to verify: Wherefore she prays judgment, and that she the said *Sarab* in the plea aforesaid may proceed notwithstanding the said *John* is under the age of 21 years.

Demurrer.

And the said *John Leigh* by his guardian aforesaid says, that his plea aforesaid above in delay of the plea aforesaid pleaded, and the matter in the same contained, are good and sufficient in law to preclude her the said *Sarab* from having her execution aforesaid against him the said *John* until, &c. And this he is ready to verify: Wherefore for that the same *Sarab* doth not answer to that plea, nor in any wise deny it, the same *John* prays judgment, and that the plea aforesaid may remain until the full age of him the said *John*, &c.

Joinder.

And the said *Henry Bartholomew* by the said C. S. his attorney comes and says, that he at the time of the issuing of the *scire facias* aforesaid was and yet is occupier of the premisses whereof he is as aforesaid returned tenant, at the will of one *John Leigh* and him the said *Henry*; and that he hath not, nor claims to have, any thing in the demesne, or in the reversion of the demesne of the tenements aforesaid, or of any part thereof whereof he is as aforesaid returned tenant, as of freehold or of fee, nor had, nor claimed to have, any thing on

Disclaimer.

Inquiry awarded.
This cause was agreed, and judgment by consent for the plaintiff.

on the day of the issuing of the said writ of *scire facias*, or ever after, but to have any thing in demesne, or in the reversion of the demesne of the same tenements with the appurtenances, or any part thereof, as of freehold, or of fee, absolutely disavows and disclaims: Therefore at the petition of the said *S. Grice* it is considered, that the lands and tenements, whereof the said *H. Bartholomew* is as aforesaid returned tenant, be delivered to the said *Sarah Grice*, to hold to the same *Sarah Grice* until the debt and damages aforesaid be thereout fully levied, according to the form and effect of the recovery aforesaid; but let the execution of those several judgments stay until the plea aforesaid between the said *Maurice Bailey* and the said *Sarah Grice*, and the plea aforesaid between the said *Henry Ward* and the same *Sarah*, be determined, &c. But because it is unknown what the lands and tenements aforesaid, so as aforesaid returned, to be in the several tenures of the said *Henry Bartholomew*, *Maurice Bailey*, &c. in the said return to the writ of *scire facias* aforesaid named, are worth by the year, according to the true value of the same, in all issues, besides reprises, the said sheriff of the county of *Surry* is commanded, that by the oath of 12 good and lawful men of his county he diligently inquire what those several lands and tenements are worth by the year, according to the true value of the same, in all issues, besides reprises; and that inquisition so by him diligently made, the same lands and tenements with the appurtenances, according to the true value of the same, to the same *Sarah Grice* without delay deliver, to hold to the same *Sarah Grice* as her freehold until she shall thereout levy the debt and damages aforesaid, and how, &c. he certify to the Lord the King at *Westminster* on day, &c. under the seal, &c. and the seals, &c. together with the writ of the Lord the King to him therefore directed: The same day is given to the said *Sarah* there, &c.

Suell against The tertenants of the Earl of Anglesey.

Scire facias by an executor against the heir and tertenants.

The plaintiff having made his will, and constituted 2 executors, died.

One proved the will, and the other renounced, and died.

The aſſing executor made his will, and the plaintiff executor, and then died.

England, to wit. **T**HE Lady the Queen hath sent to the sheriffs of *London* her writ close in these words, to wit, *Anne*, &c. To the sheriffs of *London*, greeting: Whereas *Robert Vyner*, Knt. lately in the court of the Lord *Charles* the Second, late King of *England*, &c. before the King himself, at *Westminster* by bill, without the writ of the said late King, and by the judgment of the said court, recovered against the most noble *Arthur* Earl of *Anglesey* 8000*l.* debt, and also 21*s.* for his damages which he had sustained, as well by reason of the detention of that debt, as for his costs and charges by him about his suit in that behalf expended, whereof he is convicted, as it appears to us on record: And as well *Robert Vyner* as the said *Arthur* Earl of *Anglesey* are since dead; and the said *Robert Vyner* in his life-time, to wit, on the 29th day of *August* in the year of the Lord 1688, at *London* aforesaid in the parish of *St. Mary le Bow* in the ward of *Cheape*, made his last will and testament in writing, and by the same will constituted *Francis Millington*, Esq; and *Thomas Vyner*, Esq; executors of that last will and testament; and afterwards, to wit, the same day, year and place died; after whose death, to wit, on the 4th day of *October* in the year of the Lord 1688 aforesaid, the said *Thomas Vyner* at *London* aforesaid in the parish and ward aforesaid, took upon himself the burden of the execution of that will, and then and there that will in due form of law proved, and the said *Francis Millington* then and there the burden of the execution of that will in due form of law expressly renounced; and afterwards, to wit, the same day, year and place died, and the said *Thomas Vyner* survived him; and afterwards, to wit, on the 4th day of *February* in the year of the Lord 1706, the said *Thomas Vyner*, at *London* aforesaid in the parish and ward aforesaid, made his last will and testament in writing, and by the same will constituted *Robert Suell*, Esq; executor of that will; and afterwards, to wit, the same day, year and place died; after the death of which said *Thomas Vyner* the said *Robert Suell* took upon himself the burden of the execution of the same will, and that will in due form of law hath proved, and the execution of that judgment yet remains to be executed, as by the suggestion of the said *Robert Suell* in our court before us we have understood: Wherefore the said *Robert Suell* hath beseeched us to grant him his proper remedy in this behalf; and we being willing that what is just in this behalf should be done, command you, that by good and lawful men of your bailiwick you give notice to the heir of the said *Arthur* Earl of *Anglesey*, and also to the tenants of all the lands and tenements in your bailiwick which were the said *Arthur* Earl of *Anglesey's*, on *Tuesday* next after the Octave of *St. Martin* in the 17th year of the reign of the said Lord *Charles* the Second the late King, on which day the judgment aforesaid was given, or ever after, that they be before us at *Westminster* on day next after to shew if they have or can say any thing for themselves, why the debt and damages aforesaid ought not to be levied on those lands and tenements, and paid to the said *R. Suell*, according to the force, form and effect of the recovery aforesaid, if

if they shall think fit, and farther to do and receive what our said court before us shall then and there consider concerning them in this behalf; and have there then the names of those by whom you give them notice, and this writ. Witness *T. Parker* at *Westminster* the day of in the 11th year of our reign.

Holt. Ventriss.

On which day before the Lady the Queen at *Westminster* comes *Robert Suell* by *John* The return. *Allen* his attorney; and the sheriffs of *London*, to wit, *W. S. Esq.* and *J. C. Esq.*; on that day return, that there were not, nor was, any heirs or heir of the said *Arthur* Earl of *No heir nor Anglesey*, and there were not, nor was, any tenants or tenant of any lands or tenements tenant. which were the said *Arthur* Earl of *Anglesey's* on the day that the judgment aforesaid was given, or ever after in their bailiwick, to whom they could give notice, according to the command of the writ aforesaid; whereupon on the behalf of the said *Robert* in the same court of the said Lady the Queen before the Queen herself it is sufficiently testified, that *Teslatum a-* there are divers lands and tenements in the several counties of *Oxford*, *South'ton* and *Middle-*warded to the sheriffs of *sex*, which were the said *Arthur* Earl of *Anglesey's* on the said *Tuesday* next after the Octave of *St. Martin* in the 17th year of the reign of the said Lord *Charles* the Second, the late King above said, and long after, on which the debt and damages aforesaid might be made and levied: Therefore the sheriff of the county of *Oxford* is commanded, that by good and *Oxford.* lawful men of his bailiwick he give notice to the heirs of the said *Arthur* Earl of *Anglesey*, and also to the tenants of all the lands and tenements in his bailiwick which were the said *Arthur* Earl of *Anglesey's* at the said time of the judgment aforesaid given, or ever after, that they be before the Lady the Queen at *Westminster* on *Thursday* next after three weeks of *St. Michael*, to shew if they have or can say any thing for themselves, why the debt and damages aforesaid ought not to be levied on those lands and tenements, and paid to the said *Robert Suell*, if, &c. and farther, &c. and that the same sheriff of *Oxford* have there then that writ: The sheriff of the county of *South'ton* is likewise commanded, that by *South'ton.* good and lawful men of his bailiwick he give notice to the heirs of the said *Arthur* Earl of *Anglesey*, and also to the tenants of all the lands and tenements in his bailiwick that were the said *Arthur* Earl of *Anglesey's* at the said time of the judgment aforesaid given, or ever after, that they be before the Lady the Queen at *Westminster* on day next after to shew if they have or can say any thing for themselves, why the debt and damages aforesaid ought not to be levied on those lands and tenements, and paid to the said *Robert Suell*, if, &c. and farther, &c. and that the same sheriff of *South'ton* have there then that writ: The sheriff of the county of *Middlesex* is likewise commanded, that by good and lawful *Middlesex.* men of his bailiwick he give notice to the heirs of the said *Arthur* Earl of *Anglesey*, and also to the tenants of all the lands and tenements in his bailiwick which were the said *Arthur* Earl of *Anglesey's* at the said time of the judgment aforesaid given, or ever after, that they be before the Lady the Queen at *Westminster* on day next after to shew if they have or can say any thing for themselves, why the debt and damages aforesaid ought not to be levied on those lands and tenements, and paid to the said *Robert Suell*, if, &c. and farther, &c. and that the same sheriff of *Middlesex* have there then that writ: The same day is given to the said *Robert Suell* there, &c. On which day before the Lady the Queen at *Westminster* comes the said *Robert Suell* in his proper person; and the sheriff of the county of *Oxford*, to wit, *Charles Holt*, Esq; returns, that he by virtue of the writ aforesaid to him The sheriff of *Oxford* returns a *scire* directed by *George Vaughan* and *John Ives*, good and lawful men of his bailiwick, had *feci.* given notice to *John Lewen*, Gent. tenant of one capital messuage with the appurtenances, and one close of pasture in *Bletchington*, called *Brooks Green*, otherwise *Brocks Green*, containing by estimation 3 acres, and one close of pasture in *Bletchington* aforesaid, called the *Park*, containing by estimation 70 acres, and also to *Ralph Dutton*, Bart. tenant of two closes in *Bletchington* aforesaid, called *Upper Halls Close*, containing by estimation 50 acres, and likewise to *Richard Young* and *William Young*, tenants of one close of pasture in *Bletchington* aforesaid, called the *New-ground*, containing by estimation 90 acres, and also to *William Sarney*, tenant of three closes of pasture in *Bletchington* aforesaid, called the *Westfield Cow-pasture* and the *Sands*, containing by estimation 120 acres, and likewise to *John Faulkner*, tenant of four closes of pasture in *Bletchington* aforesaid, called *Upper Bean Hill*, containing by estimation 70 acres, which were the lands and tenements of the said *Arthur* Earl of *Anglesey*, on the day of the rendition of the judgment aforesaid, that they be before the Lady the Queen at the day and place aforesaid, to shew in form aforesaid, if, &c. as by the writ aforesaid he is commanded and required; and that there were not, nor was, any heirs or heir, nor any tenants or tenant of any other lands and tenements which were the said *Arthur* Earl of *Anglesey's* on the day of the rendition of the judgment aforesaid, or ever after in his bailiwick, to whom he could give notice, as by the writ aforesaid he was commanded; and the sheriff of *South'ton*

The sheriff of *South' ton*, to wit, *A. B. Esq;* at that day, to wit, the said day next after returns, that he by virtue of the writ aforesaid, to him directed by *C. D. and E. F. good and law-*

South' ton re-
turns a scire
faci.

ful men of his bailiwick, had given notice to *R. Smith*, tenant of 10 acres of land, &c. which were the lands and tenements of the said *Arthur Earl of Anglesey*, on the day of the rendition of the judgment aforesaid, that he be before the Lady the Queen at the day and place aforesaid, to shew in form aforesaid, if, &c. as the writ aforesaid commanded and required; and that there were not, nor was, any heirs or heir, nor any tenants or tenant of any other lands or tenements which were the said *Arthur Earl of Anglesey's* on the day of the rendition of the judgment aforesaid, or ever after in his bailiwick, to whom he could

The sheriff of give notice, as by that writ he was commanded; and the sheriff of *Middlesex*, to wit, *W. S. Esq;* and *J. C. Knt.* at that day, to wit, the said day next after returns,

Middlesex re-
turns a scire
faci.

that he by virtue of the writ aforesaid, to him directed by *J. K. and L. M. good and lawful* men of his bailiwick, had given notice to *J. B.* tenant of 17 acres of land, &c. which were the lands and tenements of the said *Arthur Earl of Anglesey* on the day of the rendition of the judgment aforesaid, that he be before the Lady the Queen at the day and place aforesaid, to shew in form aforesaid, if, &c. as the writ aforesaid commanded and required; and that there were not, nor was, any heirs or heir, nor any tenants or tenant, of any other lands or tenements which were the said *Arthur Earl of Anglesey's* on the day of the rendition of the judgment aforesaid, or ever after in his bailiwick, to whom he could give notice, as by that writ he was commanded: And upon this the said *Robert Suell* produces here in court as well the letters testamentary of the said *Robert Vyner*, Knt. as the letters testamentary of the said *Thomas Vyner*, Esq; whereby it sufficiently appears to the court here, that he the said *Robert Suell* is executor of the will of the said *Thomas Vyner*, Esq; and thereof hath the administration, &c. and that he the said *Thomas Vyner*, Esq; was one of the executors of the will of the said *Robert Vyner*, Knt. and thereof had the administration, &c.

The wills
produced.

Execution
prayed.

Outlawry of
the testator.

And the same *Robert Suell* prays execution against the said *John Lewen, Ralph Dutton, Richard Young, William Young, William Sarney and John Falkner*, for the debt and damages aforesaid, on the lands and tenements aforesaid with the appurtenances whereof they are as aforesaid returned tenants, according to the recovery aforesaid to be levied, to be adjudged to him, &c. And they on the same day being solemnly called by *J. S.* their attorney come and say, that the said *Robert Suell* ought not to have execution against them for the debt and damages aforesaid of the lands and tenements aforesaid, because they say, that one *William Edwards*, Esq; otherwise, to wit, in *Trinity* term in the 35th year of the reign of the Lord *Charles the Second*, late King of *England*, impleaded the said *Robert Vyner* in the court of the said late King of the Bench at *Westminster* in a plea of debt; and because the said *Robert Vyner* did not come into the said court of the said Lord the King of the Bench aforesaid, to answer to the said *William Edwards* therein, according to the law and custom of this kingdom, was put in exigent to be outlawed in the *Hustings* of *London*, and that on that occasion it was in such manner proceeded, that afterwards, to wit, on *Monday* next before the feast of the Conversion of *St. Paul* in the 35th year of the reign of the said late Lord the King aforesaid, at the suit of the said *William Edwards* in the plea aforesaid, in *London* aforesaid, he was outlawed, as by the record and proceedings thereof now in the court of the said Lady the Queen of the Bench aforesaid remaining is more fully manifest and appears; which said outlawry yet remains in its full force and effect not reversed or annulled: And this they are ready to verify when and as the court here shall consider: Wherefore the same *John Lewen, Ralph Dutton, Richard Young, William Young, William Sarney and John Falkner*, pray judgment, if the said *Robert Suell* ought to have execution on the judgment aforesaid against them for the debt and damages aforesaid of the lands and tenements aforesaid; with this, that the said *John Lewen, Ralph Dutton, Richard Young, William Young, William Sarney and John Falkner*, will verify, that the said *Robert Vyner* is as aforesaid outlawed, and the said *Robert Vyner* in the said writ of *scire facias* above named, is one and the same person, and not another nor divers.

Tbo. Lutwyche,
William Salkeld.

Atkinfon

Atkinson against Wilcox.

George, &c. To the sheriff of *Middlesex*, greeting: Whereas *James Atkinson*, Gent. *Scire facias* a. lately in our court before us at *Westminster* by bill, without our writ, and by the judgment of the same court hath recovered against *John Cooke*, Esq; otherwise called *John Cooke* of *Great Chisbull* in the county of *Essex*, Esq; and *Thomas Haines*, Esq; otherwise called *Thomas Haines of London*, Esq; 800*l.* debt, and also 50*s.* for his damages which he hath sustained, as well by reason of the detention of that debt, as for his costs and charges by him about his suit in that behalf expended, whereof the same *John* and *Thomas* are convicted, as it appears to us on record; and altho' judgment thereof is given, yet execution for the debt and damages aforesaid yet remains to be executed: And whereas *George Wilcox* of the *Poultry*, *London*, Gent. otherwise, to wit, in *Michaelmas* term in the third year of our reign before us at *Westminster* came and became surety and bail for the said *John*, that if it should happen that the said *John* should be convicted at the suit of the said *James* in the plea aforesaid, then the same bail granted, that as well the debt aforesaid, as all such damages, costs and charges, which to the said *James* in that behalf should be adjudged, of his lands and chattels should be made, and to the use of the said *James* levied, if it should happen that the said *John* should not pay the debt and those damages, costs and charges to the said *James*, or should not render himself on that account to our prison to the marshal of the *Marshalsea* before us; which said debt, and the damages, costs and charges, to the said *James* are not yet paid, nor hath the said *John* render'd himself to our prison to the marshal of the *Marshalsea* aforesaid before us, as we have by the suggestion of the said *James* in our court before us understood: Wherefore the said *James* hath besought us to grant him his proper remedy in this behalf; and we being willing that what is just in this behalf should be done, command you, that by good and lawful men of your bailiwick you give notice to the said *George*, that he be before us at *Westminster* on *Wednesday* next after three weeks of *St. Michael*, to shew if he hath or can say any thing, why the said *James* ought not to have his execution against him for the debt and the damages, costs and charges aforesaid, according to the force, form and effect of the recognisance aforesaid, if he shall think fit, and farther to do and receive all and singular those things which our same court before us shall then and there consider concerning him in that behalf; and have there the names of those by whom you shall give him notice, and this writ. Witness *T. Lord Parker*, Baron of *Macclesfield*, at *Westminster*, &c.

Barrow against The tertenants of Hopkins.

Trin. 1 Will. Rot. 136.

William, &c. To the sheriffs of the city of *Coventry*, greeting: Whereas *G. Barrow* *Scire facias*. lately in the court of the Lord *Charles* the Second, late King of *England*, before the late King himself at *Westminster*, by bill, without the writ of the same late King, and by the judgment of the same court, hath recovered against *William Hopkins*, Gent. otherwise called *William Hopkins of Wednesbury* in the county of *Stafford*, Gent. 160*l.* debt, and also 50*s.* very. for his damages which he hath sustained as well by reason of the detention of that debt, as for his costs and charges by him about his suit in that behalf expended, whereof the said *William* is convicted, as it appears to us on record; and the said *William Hopkins* after the judgment aforesaid in form aforesaid recovered is dead, and the execution of the judgment aforesaid yet remains to be executed, as by the suggestion of the said *George* we have in our court before us understood: Wherefore the same *George* hath besought us to grant him his proper remedy in this behalf; and we being willing that what is just in this behalf should be done, command you, that by good and lawful men of your bailiwick you give notice to the tenants of all the lands and tenements in your bailiwick, of which the said *William* on *Saturday* next after three weeks of *St. Michael* in *Michaelmas* term in the 21st year of the reign of the said late King *Charles* the Second, on which day the judgment aforesaid was given, or ever after, was seised, that they be before us at *Westminster* on *Monday* next after the *Octave* of *St. Martin*, to shew if they have or can say any thing for themselves, why the debt and damages aforesaid of those lands and tenements ought not to be made, and to the said *G. Barrow* paid, according to the force, form and effect of the recovery aforesaid, if they shall think fit, and farther to do and receive what our court before us shall then and there consider

Death of the defendant.

consider concerning him in this behalf; and have there then the names of those by whom you shall give them notice, and this writ. Witness *J. Holt, &c.*

The return.

There are no tenants, neither is there any tenant of any lands or tenements in our bailiwick of which the within named *W. Hopkins* was seised on *Saturday* next after three weeks of *St. Michael* in *Michaelmas* term in the 21st year of the reign of the Lord *Charles* the Second above written, or ever after, to whom we can give notice.

The answer of *J. Olds* and *Luke Barnes,* } sheriffs.

Barrow and Hopkins.

Testatum scire facias against the tertenants.

Death of the defendant.

Recital of the scire facias to Coventry,

and the return.

Testatum.

William, &c. To the sheriff of *Stafford*, greeting: Whereas *George Barrow* lately in the court of the Lord *Charles* the Second, late King of *England*, before the late King himself, at *Westminster*, by bill, without the writ of the same late King, and by the judgment of the same court, hath recovered against *W. Hopkins*, Gent. otherwise called, &c. 160*l.* debt, and also 50*s.* for his damages which he hath sustained, as well by reason of the detention of that debt, as for his costs and charges by him about his suit in that behalf expended, whereof he is convicted, as it appears to us on record; and the said *W. Hopkins* after the judgment aforesaid given is dead, and died seised of several lands and tenements in his demesne as of fee, and execution of the judgment aforesaid yet remains to be executed, as by the suggestion of the said *George Barrow* we have in our court before us understood: Wherefore the same *George Barrow* hath besought us to grant him his proper remedy in this behalf; and because we will have those things which are lawfully transacted in our court duly executed, we have lately commanded our sheriffs of our city of *Coventry*, that they should by good and lawful men of their bailiwick give notice to the tenants of all the lands and tenements in their bailiwick, of which the said *William* on *Saturday* next after three weeks of *St. Michael* in *Michaelmas* term in the 21st year of the reign of the said late Lord King *Charles* the Second, on which day the judgment aforesaid was given, or ever after, was seised, that they should be before us at *Westminster* on *Monday* next after the Octave of *St. Martin* last past, to shew if they had or could say any thing for themselves, why the debt and damages aforesaid on those lands and tenements ought not to be levied and paid to the said *George*, according to the force, form and effect of the recovery aforesaid, if they should think fit, and farther to do and receive what our same court before us should then and there consider concerning them in that behalf; and our said sheriffs of our city of *Coventry* did on that day return to us, that there are not, nor is, any tenants or tenant of any lands or tenements in their bailiwick of which the said *William* was seised on *Saturday* next after three weeks of *St. Michael* in *Michaelmas* term in the 21st year of the reign of the Lord *Charles* the Second, late King of *England*, &c. or ever after, to whom they could give notice: And now on the behalf of the said *George Barrow* in our court before us it is sufficiently testified, that there are several tenants of sundry lands and tenements of which the said *William Hopkins* deceased was seised at the time of the rendition of the judgment aforesaid, and after, in your county, to whom you may give notice: Therefore we command you, that by good and lawful men of your bailiwick you give notice to the tenants of the lands and tenements of which the said *William Hopkins* deceased was seised at the said time of the rendition of the judgment aforesaid, or ever after, that they be before us at *Westminster* on *Monday* next after the Octave of *St. Hillary*, to shew if they have or can say any thing for themselves, why the debt and damages aforesaid on those lands and tenements ought not to be levied and paid to the said *George Barrow*, according to the force, form and effect of the recovery aforesaid, if they shall think fit, and farther to do and receive what our same court before us shall then and there consider concerning them in this behalf; and have there then the names of those by whom you shall give them notice, and this writ. Witness *J. Holt*, Knt. at *Westminster* 28th day of *November* in the 10th year of our reign.

Holt. Coleman.

The return.

Scire feci.

On which day before the Lord the King at *Westminster* comes the said *George Barrow* in his proper person; and the sheriff of the county aforesaid, to wit, *Walter Lander*, Esq; hath returned, that by virtue of that writ to him directed by *Richard Lewis* and *John Trigg*, good and lawful men of his bailiwick, he hath given notice to *Mary Hopkins*, widow, tenant of one messuage, two barns, one hundred and forty acres of land, ten acres of meadow and twenty acres of pasture with the appurtenances in the

the parish of *Wednesbury* in his bailiwick, which were the messuage, lands and tenements *Scire faci.* of *W. Hopkins*, Gent. within named, in his life-time, at the time of the rendition of the judgment within mentioned, to wit, on *Saturday* next after three weeks of *St. Michael* in *Michaelmas* term in the 21st year of the reign of the late Lord King *Charles* the Second within written, of which the said *W. Hopkins* then and after was seised in his demesne as of fee, to be before the Lord the King at the day and place within contained, to shew if she hath or can say any thing for herself, why the within named *G. Barrow* ought not to have his execution against her for the debt and damages aforesaid within written, to be levied on the lands and tenements of which the said *W. Hopkins* was seised, according to the force, form and effect of the recovery within mentioned, and farther to do and receive as the writ within mentioned commands and requires; and he farther certifies that there are not, nor is, any other tenants or tenant of any other lands or tenements in his county of which the said *W. Hopkins* was seised at the said time of the rendition of the judgment aforesaid, or ever after in his bailiwick, to whom he can give notice, as by the writ aforesaid he was commanded.

And the said *M. Hopkins*, altho' the 4th day of plea solemnly called, doth not come, but Default. hath made default: But because the court of the Lord the King now here are not yet advised to give their judgment of and upon the premisses, day therefore is given to the said *George* before the Lord the King at *Westminster* until *Wednesday* next after the morrow of the Holy Trinity to hear their judgment thereon, because the court of the said Lord the King now here thereof not yet, &c. On which day before the Lord the King at *Westminster* comes the said *George* in his proper person; whereupon all and singular the premisses being seen, and by the court of the said Lord the King now here more fully understood, and mature deliberation being thereon had, it is considered, that the said *George* have his execution against the said *Mary* for the debt and damages aforesaid, to be levied on the lands and tenements aforesaid with the appurtenances whereof the same *Mary* is as aforesaid returned tenant, according to the force, form and effect of the recovery aforesaid, by the judgment. default of the said *Mary*, &c.

Peters against Heather.

THE Lady the Queen hath sent to the sheriff of *Surry* her writ close in these words, to The entry of wit, *Anne*, &c. To the sheriff of *Surry*, greeting: Whereas *R. Maddox*, Gent. lately a *scire facias* in our court before *T. Trevor*, Knt. and his companions, our justices of the Bench, by in debt by our writ, and by the judgment of the same court, hath recovered against *John Heather* late a judgment by of *Balam* in your county, Esq; otherwise called *John Heather* of *Balam* in the county of the testator. *Surry*, Esq; as well a certain debt of 50 l. as 50 s. which to the same *Robert* in our same court were adjudged for his damages which he had by reason of the detention of that debt whereof he is convicted, as by the inspection of the record and proceedings thereof, which into our court before us we lately for certain causes of error commanded to be brought, appears to us on record: And afterwards the said *Robert* at *Balam* in the county of *Surry* Death of the aforesaid made his last will and testament in writing, and by the same constituted *F. Peters* plaintiff in the and *R. Truby* executors thereof, and afterwards there died; the said *Robert* of the damages judgment. aforesaid being not satisfied, and whereon in our same court of the Bench aforesaid, before the said *T. Trevor* and his companions our justices at *Westminster*, it was considered by the Execution a- same court, that the said *Francis* and *Richard* should have execution against the said *John* awarded for the debt and damages aforesaid, and also for 80 s. for their costs and charges which the executors in the C. B. they had by reason of the delay of the execution of the judgment aforesaid, according to the form of the statute in such case lately made and provided, whereof likewise he is convicted, as by the inspection of the record and proceedings, as well in the rendition of the judgment aforesaid, as in the adjudication of execution of the same judgment aforesaid in our court before us at *Westminster* now remaining appears to us on record: And now on the behalf of the said *Francis* and *Richard* in our court before us we have understood, that altho' judgment is given against the said *John* for the debt and damages aforesaid, and also execution is adjudged for the said *Francis* and *Richard* against the said *John* for the said 80 s. nevertheless execution of the several judgments aforesaid yet remains to be executed for the same *Francis* and *Richard*: Wherefore the same *Francis* and *Richard* have be- sought us to grant them their proper remedy in this behalf; and we being willing that what is just in this behalf should be done, command you, that by good and lawful men *Scire facias* of your bailiwick you give notice to the said *John* that he be before us on the Octave of awarded re- St. *Hilary* wheresoever we shall then be in *England*, to shew if he hath or can say any turnable in K. B. thing for himself, why the said *Francis* and *Richard* ought not to have their execution against him for the debt and damages, and their costs and charges aforesaid, according to the force, form and effect of the recovery aforesaid, if he shall think fit, and farther to do and receive what our court before us shall consider concerning him in this

this behalf; and have there the names of them by whom you shall give him notice, and this writ. Witness *T. Parker*, Knt. at *Westminster* 28th day of *November* in the 11th year of our reign.

Holt. Ventr.

Scire faci re-
turned.

On which day before the Lady the Queen at *Westminster* come as well the said *Francis* and *Richard* by *C. S.* their attorney, as the said *John* by *J. Allen* his attorney; and the sheriff, to wit, *Richard Oldner*, Esq; now returns, that he by virtue of the writ aforesaid to him directed by *W. Whitworth* and *John Terry*, good, &c. hath given notice to the said *John Heather* that he should be before the Lady the Queen on this day, to wit, on the Octave of *St. Hillary* wheresoever, &c. to shew in form aforesaid, &c. And hereupon the said *Francis* and *Richard* pray their execution against the said *John Heather* for their debt, damages, costs and charges aforesaid, to be adjudged to them, &c.

Ples, that
there is no
such record.

And the said *John Heather* says, that the said *Francis* and *Richard* ought not to have their execution against him for the debt and damages aforesaid, because he says, that there is not any such record of adjudication of execution of the judgment aforesaid for the said *Francis* and *Richard* against the said *John* for the debt and damages aforesaid in the said writ of *scire facias* mentioned, as the said *Francis* and *Richard* have above alledged: And this he is ready to verify: Wherefore he prays judgment if the said *Francis* and *Richard* ought to have their execution aforesaid against him for the debt and damages aforesaid, &c.

Repl', that
there is.

And the said *Francis* and *Richard* say, that they by any thing by the said *John* above in pleading alledged ought not to be precluded from having their execution aforesaid thereof against him, because they say, that there is such record of adjudication of execution of the judgment aforesaid for the said *Francis* and *Richard* against the said *John* for the debt and damages aforesaid in the said writ of *scire facias* mentioned, as they the said *Francis* and *Richard* have above alledged: And this they are ready to verify by that record: And it is said to the said *Francis* and *Richard*, by the court of the said Lady the Queen now here, that they have that record before the said Lady the Queen wheresoever, &c. at their peril: The same day is given to the parties aforesaid, &c.

Harrison against Ling and another.

Scire facias
against bail on
a writ of error
on a judgment
in K. B.

3 Jac. c. 8.
13 C. 2. ft. 2.
c. 2. § 9.

William and Mary, by the grace of God of England, Scotland, France and Ireland King and Queen, defenders of the faith, &c. To the sheriffs of London, greeting: Whereas *Anthony Ling* of the parish of *St. Martin in the fields* in the county of *Middlesex*, victualler, and *Daniel Nealer* of the parish of *St. Giles in the fields* in the county of *Middlesex* aforesaid, coachman, on the first day of *December* in the 4th year of our reign before *J. Holt*, Knt. our chief justice, assigned to hold pleas before us, at his chambers situate in *Serjeants-Inn* in *Chancery-lane*, London, in their proper persons came, and according to the form of the statute to avoid unnecessary delays of executions, acknowledged that they owed, and each of them acknowledged that he owed, to *S. Harrison* 261 l. 2 s. of lawful money of England, to be paid to the same *Samuel*, his executors or assigns; and unless they did pay the same, the said *Anthony* and *Daniel* granted, and each of them for himself granted, that the said 261 l. 2 s. of their and each of their lands and chattels should be made, and to the use of the said *Samuel* levied upon the condition following, to wit, that whereas the said *Samuel* lately in our court before us at *Westminster* by bill, without our writ, and by the judgment of the same court, had recovered against *John Griffin* 120 l. debt, and also 10 l. 11 s. for his damages which he had sustained, as well by reason of the detention of that debt, as for his costs and charges by him about his suit in that behalf expended, whereof the said *John Griffin* is convicted, as appears on record in our same court: And whereas the said *John Griffin* had prosecuted a certain writ of error upon the judgment aforesaid, returnable before our justices of the Common Bench, and the Barons of our Exchequer of the degree of the coif, in our Exchequer Chamber on *Saturday* the 28th day of *January* then next following; if therefore the said *John* should prosecute our said writ of error with effect, and if the judgment aforesaid should be affirmed against the said *John*, then if the same *John* should satisfy and pay to the same *Samuel* the debt and damages aforesaid, and also all such costs and damages as should be adjudged to the said *Samuel* by reason of the delay of his execution upon the judgment aforesaid, by the pretence of prosecuting our said writ of error, then the recognisance aforesaid should be void and of no effect, but otherwise should remain in its full force and effect, as by the record thereof in our court before us likewise remaining manifestly appears: And whereas in the

cause aforesaid, on the writ of error aforesaid, it was in such manner proceeded, that in our said court of Exchequer Chamber at *Westminster* before the judges of that court on *Saturday* the 25th day of *November* in the 5th year of our reign, the judgment aforesaid was in all things affirmed, as by the record thereof in our said court before us more fully appears: Nevertheless the said *John* hath not paid and satisfied to the said *Samuel* the debt and damages aforesaid, and also 8*l.* for the costs and damages which were adjudged to the said *Samuel* by reason of the delay of his execution on the judgment aforesaid, by the pretence of prosecuting of our said writ of error, as by the suggestion of the said *Samuel* we have in our court before us understood: Wherefore the said *Samuel* hath besought us to grant him his proper remedy in this behalf; and we being willing that what is just in this behalf should be done, command you, that by good and lawful men of your bailiwick you give notice to the said *Anthony* and *Daniel*, that they be before us at *Westminster* on *Thursday* next after 15 days of *St. Hillary*, to shew if they have or can say any thing for themselves, why the said *Samuel* ought not to have his execution of the said 26*l.* 2*s.* and also of the said 8*l.* according to the force, form and effect of the recognisance aforesaid, if they shall think fit, and farther to do and receive what our court before us shall then and there concerning them consider in this behalf; and have there then the names of those by whom you shall give them notice, and this writ. Witness *J. Holt*, Knt. at *Westminster* 23d day of *January* in the 5th year of our reign.

The within named *Anthony* and *Daniel* have nothing, neither hath either of them any *Nichil* re- thing in our bailiwick, whereby we can give notice to them, or either of them, neither turn'd. are they, nor is either of them, found in the same.

The answer of $\left. \begin{array}{l} \text{J. Abney, Knt.} \\ \text{and} \\ \text{W. Hodges, Knt.} \end{array} \right\} \text{sheriffs.}$

Hyde at the suit of *Johnson*.

AND the said *Nathaniel*, being one of the attornies in the said court of the said Lord No such re- the King, before the King himself present in the same court in his proper person says, cord. that the said *Mary* ought not to have her execution against him for the debt and damages aforesaid, because he says, that there is not any such record of the recovery of the debt and damages aforesaid, as by the writ aforesaid is above supposed: And this he is ready to verify: Wherefore he prays judgment if the said *Mary* ought to have execution against him for the debt and damages aforesaid, &c.

And the said *Mary* says, that by any thing by the said *Nathaniel* above in pleading al- There is. ledged she ought not to be precluded from having her execution against him for the debt and damages aforesaid, because she says, that there is such record of the recovery aforesaid in the said court of the said Lord the King before the King himself, remaining on record in the term of the Holy Trinity in the first year of the reign of the said Lord the King in the roll 254; and she prays that that term and roll by the court of the said Lord the King may be seen and inspected: And because the court of the said Lord the King here are not yet advised to give their judgment thereon, day therefore is given to the parties aforesaid until day next after to hear their judgment on that issue, because the court of the said Lord the King here thereof not yet, &c.

Boothby, Bart. at the suit of *Vincent*.

AND the said *William Boothby* by *J. L.* his attorney comes and says, that the said Plea by ter- *Edward Vincent* ought not to have execution against him for the debt and damages tenant, that the defendant was not seised of. aforesaid of the lands and tenements in the return of the writ of *scire facias* aforesaid mentioned, whereof he is returned tenant, because he says, that the said *Henry Boothby* in the said writ of *scire facias* named, or any other person or persons, to the use of the said *Henry* and his heirs at the time of the rendition of the judgment aforesaid in the same writ above-mentioned, or ever after, were not, nor was, seised of the same lands and tenements, or of any parcel thereof, in his demesne as of fee: And this he is ready to verify: Wherefore he prays judgment if the said *Edward* ought to have execution against him for the debt and damages aforesaid on the lands and tenements aforesaid, &c.

Puerfey

Puerfoy and another at the suit of Littleton.

Plea, that the
bail was to an
original in
Middlesex and
the recovery
in Stafford.

AND the said *George Puerfoy* and *John Gilbert* by *J. E.* their attorney come and say, that the said *Edward Littleton* ought not to have execution against them for the said 400 *l.* separately by them as aforesaid acknowledged, by virtue of the recognisance aforesaid, because they say, that the said plea of debt on demand of 200 *l.* against the said *T. Kinnerfley* by him the said *E. Littleton* in the court of the said Lord and Lady the King and Queen of the Bench here prosecuted, in the condition of the said recognisance above specified, in and upon which the same recognisance or bail aforesaid, so as aforesaid was made, was prosecuted and levied in the county of *Middlesex*, by and upon an original writ of the Lord and Lady the King and Queen, to the sheriff of the county of *Middlesex* directed; in which said plea or action laid in the county of *Middlesex*, no judgment for the said *E. Littleton* against the said *T. Kinnerfley* after the time of the recognisance aforesaid made, and before the issuing of the said writ of *scire facias* in the said court here was or yet is given; but the said recovery of the said 210 *l.* 10 *s.* by the said *E. Littleton* against the said *T. Kinnerfley* had and obtained, was in a plea or action of debt arising and laid in the county of *Stafford* in the said court here prosecuted by the same *E. Littleton* against the said *T. Kinnerfley*, in which case when there is such variance from the county, such bail of recognisors, according to the custom of the court of the Lord and Lady the King and Queen of the Bench here, by their recognisance or bail in that behalf, ought not in any manner to be charged: And this they are ready to verify: Wherefore they pray judgment if the said *E. Littleton* ought to have execution against them for the said 400 *l.* separately by them as aforesaid acknowledged, by virtue of the recognisance aforesaid, &c.

Creswell Levinz.

Orchard against Shepheard.

Another *scire*
facias depend-
ing pleaded in
abatement.

AND the said *Samuel* on the 4th day of plea being solemnly called by *J. N.* his attorney likewise comes; whereupon the said *George* prays his execution against the said *Samuel* for the damages aforesaid to be adjudged to him, &c. and the said *Samuel* comes and defends the force and injury when, &c. and prays judgment of the writ of *scire facias* aforesaid, because he says, that the said *G. Orchard* before the issuing of the said writ of *scire facias* now here in court produced, to wit, on the 8th day of *May* in the 12th year of the reign of the Lord *William* the Third, now King of *England*, &c. aforesaid, prosecuted out of the court of the said Lord the now King before the King himself (the same court then being at *Westminster* in the county of *Middlesex*) a certain other writ of *scire facias* against the said *Samuel*, by the name of *S. Shepheard* late of *London*, merchant, the tenor of which said writ follows in these words, to wit, *William*, &c. To the sheriffs of *London*, greeting: Whereas *G. Orchard* lately in our court of Common Bench hath recovered against *S. Shepheard* late of *London*, merchant, 960 *l.* as well for his damages in a plea of trespass on the case, as for his costs and charges by him about his suit in that behalf expended, whereof he is convicted, as it appears to us on record, the record and proceedings of which said judgment we have lately for certain reasons caused to be brought before us; and although judgment thereof be given, yet the execution for the damages aforesaid still remains to be made to him: Wherefore the same *George* hath besought us to grant him his proper remedy in this behalf; and we being willing that what is just in this behalf should be done, command you, that by good and lawful men of your bailiwick you give notice to the said *Samuel* that he be before us on the morrow of the Holy *Trinity* wheresoever we shall then be in *England*, to shew if he hath or can say any thing for himself, why the said *George* ought not to have execution against him, according to the force, form and effect of the recovery aforesaid, if he shall think fit, and farther to do and receive what our same court before us shall consider in that behalf concerning him; and have there then the names of those by whom you shall give him notice, and this writ. Witness *J. Holt*, Knt. at *Westminster* the 8th day of *May* in the 12th year of our reign: To which said writ of *scire facias* he the same *Samuel* on the day of the return of that writ in the same court of the said Lord the King before the King himself (the same court then being at *Westminster* aforesaid in the county of *Middlesex* aforesaid) hath appeared and pleaded, and the writ and that plea in the same court of the said Lord the now King before the King himself yet remain undiscussed and undetermined, and not discontinued or annulled: And this he is ready to verify by the record thereof in the said court of the said Lord the King before the King himself at *Westminster*, aforesaid remaining: Wherefore the said *Samuel* as before prays judgment of the said writ of *scire facias* now here in court produced, and that that writ may be quashed, &c. with this, that the same *S.* will verify, that the said *S.* in the writ of *scire facias* aforesaid

Whereto he
hath appeared
and pleaded,
&c.

aforesaid above pleaded named, and the said *Samuel* in the said writ of *scire facias* now here in court produced named, is one and the same person, and not another nor different; and that the said writ of *scire facias* above pleaded, and the said writ of *scire facias* now here in court produced, were obtained for one and the same damages, and not other nor different.

And the said *George* prays leave to imparl thereto; and to him it is granted, &c. And upon this day is given to the parties aforesaid before the Lord the King until from the day of St. Michael in three weeks wheresoever, &c. to wit, to the said *George* to imparl, and then to reply, &c. On which day before the Lord the King at *Westminster* come the parties aforesaid by their attornies aforesaid; and the said *George* farther prays leave to imparl thereto; and to him it is granted, &c. And upon this day is given to the parties aforesaid before the Lord the King until from the day of St. Michael in one month wheresoever, &c. to wit, to the said *George* to imparl, and then to reply, &c. On which day before the Lord the King at *Westminster* come the parties aforesaid by their attornies aforesaid; and the said *George* says, that by any thing by the said *Samuel* above in pleading before al-
 Repl. that it is discontinued.

ledged his writ of *scire facias* aforesaid ought not to be quashed, because he says, that the plea aforesaid upon the writ of *scire facias* aforesaid in the plea aforesaid of him the said *Samuel* above-mentioned from the day of St. Michael in three weeks before the Lord the King at *Westminster* by the judgment of the same court is discontinued, as by the record thereof in the same court remaining appears: And this the same *George* is ready to verify by that record: Wherefore he prays judgment, and that his writ of *scire facias* aforesaid now here in court depending may be adjudged good, &c.

And the said *Samuel* says, that there is not any record of the discontinuance of the writ of *scire facias* aforesaid in the plea of the said *Samuel* aforesaid above-mentioned here in the court of the said Lord the King remaining: And this he is ready to verify: Wherefore as before he prays judgment of the said writ of *scire facias* now here in court produced, and that that writ may be quashed, &c.

And the said *George* says, that there is such record of the discontinuance of the writ of *scire facias* in the said plea of him the said *Samuel* above-mentioned, as the said *George* above in replying hath alledged, as appears by the record thereof in *Trinity* term in the 12th year of the reign of the said Lord the now King in the roll 176. and he prays that the term and that roll by the court of the said Lord the King now here may be seen and inspected: And because the court of the said Lord the King now here are not yet advised to give their judgment of and upon the premisses, day is given to the parties aforesaid before the Lord the King until on the Octave of St. *Hilary* wheresoever, &c. to hear their judgment on that issue, because the court of the said Lord the King now here thereof not yet, &c.

Short and another and Beetham.

AND the said *Peter* and *Samuel* in their proper persons come and say, that the said *William* ought not to have his execution against them the said *Peter* and *Samuel* for the damages aforesaid, because they say, that they after the recovery of the judgment aforesaid in the writ of *scire facias* aforesaid above-mentioned, and before the issuing of the said writ of *scire facias*, to wit, on the first day of *January* in the 5th year of the reign of the said Lord the now King, paid to the said *William* the said 114*l.* 6*s.* 8*d.* in satisfaction and discharge of the judgment aforesaid, to wit, at *Eastkeale* in the county aforesaid; which said 114*l.* 6*s.* 8*d.* the said *William* then and there received and accepted in full satisfaction and discharge of the judgment aforesaid: And this they are ready to verify: Wherefore they pray judgment if the said *William* ought to have his execution against them for the damages aforesaid, &c.

Jones and Tully.

Judgment by
default in a
scire facias in
ejectment.

BUT hath made default: Therefore it is considered, that the said *John Jones* have his possession of the terms aforesaid yet to come of and in the several tenements aforesaid with the appurtenances; and also his execution against the said *Arthur* for the damages aforesaid, according to the force, form and effect of the recovery aforesaid, by the default of the said *Arthur*, &c.

Povey against Cesar.

Scire facias
quare execu-
tionem non.

England, to wit. **T**HE Lady the Queen hath sent to the sheriffs of *London* her writ close in these words, to wit, *Anne* by the grace of God of *Great Britain* *France* and *Ireland* Queen, defender of the faith, &c. To the sheriffs of *London*, greeting: Whereas *Josias Povey*, and so on to Witness *J. Holt*, Knt. at *Westminster* 23d day of *October* in the 8th year of our reign: On which day before the Lady the Queen at *Westminster* comes the said *Josias* in his proper person; and the sheriffs of *London*, to wit, *Richard Gay*, Esq; and *Charles Hopson*, Esq; return, that the said *John* hath nothing in their bailiwick whereby they can give him notice, neither is he found in the same; and the said *John* doth not come: Therefore as before the sheriffs are commanded, that by good and lawful men of their bailiwick they give notice to the said *John*, that he be before the said Lady the Queen at *Westminster* on *Monday* next after the morrow of *All Souls*, to shew in form aforesaid, if, &c. and farther, &c. The same day is given to the said *Josias* there, &c. On which day before the Lady the Queen at *Westminster* comes the said *Josias* in his proper person; and the said sheriffs of *London* as before return, that the said *John* hath nothing in their bailiwick whereby they can give him notice, neither is he found in the same: And hereupon the said *Josias* prays his execution against the said *John* for the debt and damages aforesaid to be adjudged to him, &c.

Plea, levied
by fieri facias.

And the said *John* by *William Beard* his attorney comes and says, that the said *Josias* ought not to have execution of the debt and damages aforesaid against him, because he says, that after the rendition of the judgment aforesaid, and before the issuing of the first writ of *scire facias*, to wit, in *Hillary* term in the 7th year of the reign of the Lady the now Queen, the said *Josias*, for the obtaining of his debt and damages aforesaid, prosecuted out of the court here of and upon the judgment aforesaid, a certain writ of the said Lady the Queen of *feri facias*, to the sheriff of the county of *Surry* directed, against the said *John*; by which said writ the same sheriff was commanded, that of the goods and chattels of the said *John* in his bailiwick he should cause to be made the debt and damages aforesaid, and should have that money in court here on *Wednesday* next after 15 days of *Easter* then next ensuing, to be paid to the said *Josias* for the debt and damages aforesaid; which said writ afterwards and before the return thereof, to wit, on the 20th day of *February* in the 7th year aforesaid, at *Croydon* aforesaid in the said county of *Surry*, was delivered to one *William Stevens*, Esq; (the same *William Stevens* then and until and after the return of that writ being sheriff of the same county) by virtue of which said writ the same sheriff after and before the return thereof, to wit, on the first day of *March* in the 7th year aforesaid, at *Croydon* aforesaid, the debt and damages aforesaid on the goods and chattels of him the said *John* caused to be levied: And this he is ready to verify: Wherefore he prays judgment if the said *Josias* ought to have his execution against him for the debt and damages aforesaid, &c.

Jos. Ayliff.

Issue.

And the said *Josias* says, that he by any thing by the said *John* above alledged ought not to be precluded from having his execution aforesaid thereof against the said *John* for the debt and damages aforesaid, because he says, that the said *William Stevens* in the plea aforesaid of him the said *John* mentioned, hath not caused to be levied the debt and damages aforesaid on the goods and chattels of him the said *John*, in manner and form as the said *John* hath above alledged: And this he prays may be inquired of by the country: And the said *John* likewise, &c. Therefore, &c.

Farm

Farmer against the bail of Ryves.

THE Lady the Queen hath sent to the sheriff of *Middlesex* her writ close in these words, to wit, *Anne* by the grace of God, of *England, Scotland, France and Ireland* Queen, defender of the faith, &c. To the sheriff of *Middlesex*, greeting: Whereas *Elizabeth Farmer* lately in our court before us at *Westminster*, by bill, without our writ, and by the judgment of the same court, hath recovered against *Brune Ryves* 66*l.* for her damages which she sustained as well by reason of the non-performance of certain promises and assumptions to the same *Elizabeth* by the said *Brune Ryves* lately made, as for her costs and charges by her about her suit in that behalf expended, whereof the same *Brune* is convicted, as it appears to us on record: And now on the part of the said *Elizabeth Farmer* in our same court before us we have understood, that altho' judgment thereof be given, yet execution for the damages aforesaid still remains to be made to her: And whereas also *Thomas Bartley* of *Woodstreet, London*, victualler, *William Hawes* of the *Falcon* in *Fetter-lane*, victualler, *William Johnson* of *Salisbury-square* in *Fleet-street, London*, Gent. *Peter Tanner* of the *Middle-Temple Gate, London*, stationer, *Christopher Clapham* of the parish of *St. Andrew Holborn* in the county of *Middlesex*, Gent. *Charles Bevan* of *New-street* in *Fetter-lane* aforesaid, Gent. *John Farrington* of *Hemlock-court* near *Lincolns-Inn fields*, Gent. and *Thomas Baker* of *Pater-noster-row, London*, upholster, otherwise to wit, in *Trinity* term in the 7th year of our reign in our same court before us at *Westminster* personally came and became surety, and each of them for himself became surety for the said *B. Ryves*, that if it should happen that the same *B. Ryves* should be convicted in the plea aforesaid, then the same *T. B. W. H. W. J. P. T. C. C. C. B. J. F.* and *T. B.* granted, and each of them for himself granted, that all such damages, costs and charges, as to the same *Elizabeth* in that behalf should be adjudged, on their and each of their lands and chattels should be made, and to the use and behoof of the said *Elizabeth* levied, if it should happen that the same *B. Ryves* should not pay the debt, costs and charges aforesaid to the said *Elizabeth*, nor surrender himself on that account to the prison of the marshal of our *Marshalsey* before us: Nevertheless the said *B. Ryves* the damages, costs and charges aforesaid, to the same *Elizabeth* hath not yet paid, nor surrendered himself on that account to the prison of the marshal of our *Marshalsey* aforesaid before us, as we have by the suggestion of the said *Elizabeth Farmer* in our same court before us understood: Wherefore the same *Elizabeth* hath besought us to grant her her proper remedy in this behalf; and we being willing that what is just in this behalf should be done, command you, that by good and lawful men of your bailiwick you give notice to the said *Thomas Bartley, W. H. W. J. P. T. C. C. C. B. J. F.* and *T. B.* that they be before us at *Westminster* on the morrow of the Purification of the Blessed Virgin *Mary*, to shew if they have or can say any thing for themselves, why the said *Elizabeth Farmer* should not have her execution against them the said *T. B. W. H. W. J. P. T. C. C. C. B. J. F.* and *T. B.* for the damages aforesaid, according to the force, form and effect of the recognisance aforesaid, if they shall think fit, and farther to do and receive all and singular those things which in our same court before us shall be concerning them then and there considered in this behalf; and have there then the names of those by whom you shall give them notice, and this writ. Witness *J. Holt*, Knt. at *Westminster* 28th day of *January* in the 8th year of our reign: On which day before the Lady the Queen at *Westminster* comes the said *Elizabeth Farmer* in her proper person; and the sheriff of *Middlesex*, to wit, *Richard Hoare*, Knt. and *Thomas Dunck*, Esq; returns, that the said *T. B. W. H. W. J. P. T. C. C. C. B. J. F.* and *T. B.* have not, nor hath any of them, any thing in his bailiwick whereby he can give notice to them, or any of them, nor are they, nor is any of them, found in the same; and they do not come, nor doth any of them come: Therefore as before the sheriff is commanded, that by good and lawful men of his bailiwick he give notice to the said *T. B. W. H. W. J. P. T. C. C. C. B. J. F.* and *T. B.* that they be before the Lady the Queen at *Westminster* on *Saturday* next after the Octave of the Purification of the Blessed Virgin *Mary*, to shew in form aforesaid, if, &c. and farther, &c. The same day is given to the said *Elizabeth* there, &c. On which day before the Lady the Queen at *Westminster* comes as well the said *Elizabeth* in her proper person as the said *J. F.* and *T. B.* in their proper persons; and the sheriff as aforesaid returns, that the said *T. B. W. H. W. J. P. T. C. C. C. B. J. F.* and *T. B.* have not, nor hath any of them, any thing in his bailiwick whereby he can give them or any of them notice, nor are they, nor is any of them, found in the same: And the said *Thomas Bartley, William Hawes, W. J. P. T. C. C. C. B. J. F.* and *T. B.* altho' on the same day solemnly called, do not come, nor doth any of them come, but have made default; whereupon the said *Elizabeth* prays her execution against the said *T. B. W. H. W. J. P. T. C. C. C. B. J. F.* and *T. B.* for the damages aforesaid, according to the force, form and effect of the recognisance aforesaid, to her

The 7th
pleads, no
ca. fa. sued
out.

her to be adjudged, &c. And the said J. F. in his proper person comes and says, that the said *Elizabeth* ought not to have her execution for the damages, costs and charges aforesaid against him, by pretence of the recognisance aforesaid, because he says, that after the rendition of the judgment aforesaid against him the said *B. Ryves*, at the suit of the said *Elizabeth Farmer*, in form aforesaid had, and before the issuing of the said first writ of the said Lady the Queen of *scire facias* against him the said J. F. as bail for him the said *B. Ryves*, at the suit of the said *E. Farmer*, no writ of *capias ad satisfaciendum* upon that judgment by the said *E. Farmer* against him the said *B. Ryves* was duly returned and filed in the court of the said Lady the Queen now here on record, which, according to the custom of the said court for time immemorial used and approved in the same, ought to be before any writ of *scire facias* against him the said J. F. as bail as aforesaid, ought to have issued: And this he is ready to verify: Wherefore he prays judgment if the said *Elizabeth Farmer* ought to have her execution against him the said J. F. for the damages, costs and charges aforesaid, by pretence of the recognisance aforesaid, &c. And the said T. B. says, that the said *Elizabeth* ought not to have execution for the damages aforesaid against him, because he says, that after the rendition of the judgment aforesaid, and before the issuing of the said first writ of *scire facias*, to wit, in *Hillary* term in the 8th year of the reign of the Lady the now Queen, the said *Elizabeth*, for the obtaining of her damages aforesaid, prosecuted out of the court here of and upon the judgment aforesaid a certain writ of the said Lady the Queen of *feri facias*, to the sheriff of the county of *Surry* directed, against the said *B. R.* by which said writ the same sheriff was then commanded, that of the goods and chattels of the said *B. R.* in his bailiwick he should cause to be made the damages aforesaid, and should have here that money on *Wednesday* next after 15 days of *Easter* then next ensuing, to be paid to the said *Elizabeth* for the damages aforesaid; which said writ afterwards and before the return thereof, to wit, on the 20th day of *February* in the 8th year aforesaid, at *Croydon* in the said county of *Surry*, was delivered to one *John Eversfield*, Esq; (the same *John Eversfield* then and until and after the return of that writ being sheriff of the same county) by virtue of which said writ the same sheriff afterwards and before the return thereof, to wit, on the first day of *March* in the 8th year above said, at *Croydon* aforesaid, the damages aforesaid on the goods and chattels of the said *B. R.* in his bailiwick caused to be made: And this he is ready to verify: Wherefore he prays judgment if the said *Elizabeth* ought to have her execution against him for the damages aforesaid, &c.

The other
pleads a *fi. fa.*
executed.

Repl. as to
the ca. fa.
that one was
sued out,

And the said *Elizabeth* as to the plea of the said J. F. says, that she by any thing by the said J. F. above in pleading alledged ought not to be precluded or delayed from having her execution aforesaid against him for the damages aforesaid, by virtue of the recognisance aforesaid, because she says, that after the rendition of the judgment aforesaid against the said *B. Ryves*, at the suit of the said *Elizabeth* in form aforesaid had, and before the issuing of the said first writ of the said Lady the Queen of *scire facias* against him the said J. F. as bail for the said *B. Ryves*, at the suit of the said *Elizabeth*, to wit, on the 28th day of *November* in the 8th year of the reign of the said Lady the now Queen, &c. she the same *Elizabeth* at *Westminster* in the county of *Middlesex* obtained and prosecuted out of the court of the said Lady the Queen before the Queen herself, the same court being then and there at *Westminster* aforesaid, a certain writ of the said Lady the Queen of *capias ad satisfaciendum* for the damages, costs and charges aforesaid, upon the judgment aforesaid against the said *B. Ryves*, to the then sheriffs of the city of *London* directed; by which said writ the same Lady the Queen commanded the said then sheriffs of *London*, that they should take the said *B. Ryves*, if he should be found in their bailiwick, and him should safely keep, so that they might have his body before the said Lady the Queen at *Westminster* on *Thursday* next after the Octave of *St. Hillary* then next ensuing, to satisfy the said *Elizabeth* the said 66l. for her damages, costs and charges aforesaid, upon the judgment aforesaid, against the said *B. Ryves*: On which day the said *E.* in her proper person came into the same court of the said Lady the Queen before the Queen herself, (the same then and yet being at *Westminster* aforesaid) and the said sheriffs of *London*, to which *R. Hoare*, Knt. and *T. Dunk*, Esq; on that day returned, that the said *B. Ryves* was not found in their bailiwick, as by the said writ of *capias ad satisfaciendum*, and the return thereof, in the same court of the said Lady the Queen before the Queen herself on record remaining filed, is more fully manifest and appears: And this she is ready to verify by that record, &c. And she prays that the record of the writ aforesaid, and the return thereof, by the court of the said Lady the Queen now here may be seen and inspected, &c.

and returned
non inventus.

And as to the
feri facias,
that none was
sued out.

And the said *E.* says, that she by any thing by the said *T. Baker* above in pleading alledged ought not to be precluded or delayed from having her execution for the damages aforesaid against him, because she says, that the said *E.* at any time hitherto for the obtaining of the damages aforesaid hath not prosecuted out of the court here of and upon the judgment aforesaid any writ of the said Lady the Queen of *feri facias*, to the sheriff of the county of *Surry* directed, against the said *T. Baker*, as the said *T. B.* above by pleading hath alledged: And this she prays may be inquired of by the country: And the said *T. B.* thereof likewise, &c. And because the court of the said Lady the Queen now here are not yet

yet advised to give their judgment as well of and upon the premisses against the said *T. B. W. H. W. J. P. T. C. C.* and *C. B.* whereof they have made default, as of and upon the premisses between the said *Elizabeth* and the said *J. F.* above pleaded, day therefore is given as well to the same *Elizabeth* as to the said *J. F.* before the same Lady the Queen at *Westminster* until day next after to hear their judgment thereon, because the court of the said Lady the Queen here thereof not yet, &c. and as to try the issue afore-^{Venire award-} said between the said *Elizabeth* and the said *Thomas Baker* above joined to be tried by the ed. country, the sheriff is commanded, that he cause to come before the Lady the Queen at *Westminster* on the same day 12, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. The same day is given as well to the said *Elizabeth* as to the said *T. B.* there, &c. On which day before the Lady the Queen at *Westminster* come as well the said *Elizabeth* in her proper person, as the said *J. F.* and *T. B.* in their proper persons: But because the court of the said Lady the Queen now here are not yet advised to give their judgment as well of and upon the premisses against the said *T. B. W. H. W. J. P. T. C. C.* and *C. B.* whereof they have made default, as of and upon the premisses between the said *Elizabeth* and the said *J. F.* above pleaded, day therefore is given as well to the said *Elizabeth* as to the said *J. F.* before the same Lady the Queen at *Westminster* until day next after to hear their judgment thereon, because the court of the said Lady the Queen now here thereof not yet, &c. and as to try the issue aforesaid between the said *Elizabeth* and the said *Thomas Baker* above joined to be tried by the country, the sheriff hath returned the writ aforesaid in all things served and executed, together with a panel of the names of the jurors, whereof none, &c. Therefore the sheriff is command-^{Distringas a-} ed, that he distrain the jurors aforesaid by all the lands, &c. and that of the issues, &c. ^{warded.} and that he have their bodies before the Lady the Queen at *Westminster* on the same day, or before the trusty and beloved *Thomas Parker*, Knt. chief justice of the said Lady the Queen, assigned to hold pleas before the Queen herself, if he shall first come on day next after at *Westminster* aforesaid in the great hall of pleas there, by the form ^{18 El. c. 12.} of the statute, &c. for want of jurors, &c. Therefore let the sheriff have the bodies, &c. ^{12 Geo. c. 31.} The same day is given as well to the said *Elizabeth* as to the said *Thomas B.* there, &c.

Thurstout and Reyner.

AND the said *John* and *Thomas* in their proper persons come and defend the force ^{Oyer prayed} and injury, &c. and pray oyer of the first writ of the said Lord the King of ^{scire of the writs of} *scire facias*, and of the return of the same writ, and they are read to them in these words, to ^{scire facias} wit, *George*, &c. to the end of the writ; they likewise pray oyer of the said writ of the said Lord the King of *alias scire facias*, and of the return of the same writ, and they are read to them in these words, to wit, *George* by the grace of God of *Great Britain, France* and *Ireland* King, defender of the faith, &c. To the sheriff of *Derby*, greeting, &c. and farther to do and receive all and singular those things which our court before us shall then consider concerning them in this behalf; and have there then the names of those by whom ^{Demurrer.} you shall give them notice, and this writ. * Witness *Thomas Pratt* at *Westminster* 12th day of *February* in the 6th year of our reign; which being read and heard, the same * *John* * There are 14 more de-
and *Thomas* say, that the writ of *scire facias* aforesaid in form aforesaid issued is not suffi-^{fendants in} cient in law to maintain him the said *John Thurstout* to have his execution aforesaid against the said * *John* and *Thomas* of the possession of the term, and the damages, costs ^{the original,} and charges aforesaid, to which the said * *John* and *Thomas* have no necessity, nor are by ^{but as they} the law of the land obliged, to answer: And this they are ready to verify: Wherefore for ^{are not named} that the said writ of *scire facias* is not rightfully issued, and is insufficient in law, the same ^{at first, they} * *John* and *Thomas* pray judgment, and that the said *John Thurstout* may be precluded ^{are here o-} from having his execution aforesaid against them the said * *John* and *Thomas* of the pos-^{mitted.} session of the term, and the damages, costs and charges aforesaid; and for causes of de-
murrer in this behalf the same *John* and *Thomas* shew these causes following, that the writ aforesaid is witnessed by *Thomas Pratt* when it ought to have been witnessed by *John Pratt*, and that the writ aforesaid is uncertain, and wants form.

C. Wearg.

Butler and Britland.

Judgment in
sci. fac. for
the plaintiff.

Therefore it is considered, that the said *Grace* have her execution against the said *George Britland* for the debt and damages aforesaid, according to the force, form and effect of the recovery aforesaid: And it is farther considered by the same court of the said Lord the King, that the said *Grace* do recover against the said *George* 14*l.* for her costs and charges by her about her suit in this behalf sustained to the same *Grace*, by the court of the said Lord the King now here, by her assent, according to the form of the statute in such case made and provided: And the said *Grace* may have thereof likewise execution, &c.

Garlick and Gantlet.

Plea to a sci.
facias against
bail, that he
is not the
same person.

JOHN Garlick, who is now on the writ of *sci. facias* aforesaid summoned, in his proper person comes and says, that he upon the writ aforesaid is summoned to shew cause, according to the command of the writ aforesaid, and says, that the said *Roger Gantlet* ought not to have execution against him for the debt, damages, costs and charges aforesaid, because he says, that a certain other *John* came into the same court here before *W. S. Knt.* chief justice of the Lord the King, assigned to hold pleas before the King himself at his mansion-house, situate in *Chancery-lane* in the county of *Middlesex*, and became one of the surety and bail for the said *Thomas Garlick* in the plea aforesaid, at the suit of the said *Roger Gantlet*, in manner and form as by the writ aforesaid is above supposed; without that, that the same *John* now appearing is the same person who came into the same court here before *W. S. Knt.* the chief justice aforesaid, and became one of the surety and bail for the said *Thomas Garlick* in the plea aforesaid, at the suit of the said *Roger Gantlet*, as by the writ of *sci. facias* aforesaid is above supposed: And this the same *John Garlick* now appearing is ready to verify: Wherefore he prays judgment, &c.

Adams against The tertenants of Savage.

The record of
Dorset, to wit.
nisi prius in a
sci. facias by
an administra-
tor against the
tertenants.
Salk. 40.
Mod. Caf.
134.

THE Lord the King hath sent to the sheriff of the county of *Dorset* his writ close in these words, to wit, *William* the Third, by the grace of God, of *England, Scotland, France and Ireland* King, defender of the faith, &c. To the sheriff of *Dorset*, greeting: Whereas *Sarah Adams*, widow, lately in the court of the Lord *Charles* the Second, late King of *England*, before the late King himself at *Westminster*, to wit, in *Easter* term in the 34th year of the reign of the same late King, by bill, without the writ of the said late King, and by the judgment of the same court, hath recovered against *George Savage*, Knt. otherwise called *George Savage* of *Blaxworth* in the county of *Dorset*, Esq; as well a certain debt of 200*l.* as 40*s.* for her damages which she hath sustained as well by reason of the detention of that debt, as for her costs and charges by her about her suit in that behalf expended, whereof he is convicted, as by the record and proceedings thereof in our court before us now remaining manifestly appears: Nevertheless execution of the judgment aforesaid yet remains to be executed, and as well the said *George* as the said *Sarah* are dead, as by the suggestion of *John Adams*, the administrator of the goods and chattels, rights and credits, which belonged to the said *Sarah Adams* at the time of her death, we have in our court before us lately understood; and because we are willing that those things which in the said court of the said late King were lawfully transacted should be carried into due execution, we command you, that by good and lawful men of your bailiwick you give notice to the tenants of all the lands and tenements in your bailiwick of which the said *George Savage* was seised in fee-simple on *Saturday* next after three weeks of *Easter* in the thirty-fourth year of the reign of the said Lord *Charles* the Second, late King of *England*, &c. aforesaid, on which day the judgment aforesaid was given, or ever after, that they be before

before us at *Westminster* on *Friday* next after the *Octave* of *St. Martin*, to shew if they have or can say any thing for themselves, why the debt and damages aforesaid ought not to be levied on those lands and tenements, and paid to the said *John*, according to the force, form and effect of the recovery aforesaid, if they shall think fit, and farther to do and receive what our said court before us concerning them shall then and there consider in this behalf; and have there then the names of those by whom you shall give them notice, and this writ. Witness *J. Holt*, Knt. at *Westminster*, 23d day of *October* in the 13th year of our reign.

Holt. Coleman.

On which day before the Lord the King at *Westminster* comes the said *John Adams*, the Death of the natural son of the said *Sarah Adams*, by *William Underwood* his attorney, and says, that plaintiff in the judgment aforesaid in form aforesaid given, to wit, on the 10th day of *May* in the judgment. the 12th year of the reign of the Lord the now King, at *Blaxworth* aforesaid in the county aforesaid, the said *Sarah Adams* died intestate, being not paid the debt and damages aforesaid; after the death of which said *Sarah*, administration of all and singular the goods and Administration granted. chattels, rights and credits, which belonged to the said *Sarah* at the time of her death by *Charles Sloper*, clerk, master of arts, official principal of the reverend *Robert Cooper*, clerk, It should have been granted by the metropolitan. master of arts, archdean of the archdeanary of *Dorset* lawfully constituted, to whom the commission of that administration of right belonged, on the 21st day of *July* in the 13th year of the reign of the now King, at *Blaxworth* aforesaid in the county aforesaid, to the same *John* in due form of law was committed; and the sheriff of the county of *Dorset*, to wit, *W. Fitch*, Esq; now returns, that he the said *W. Fitch*, by virtue of the writ aforesaid The return. to him directed by *A. S.* and *W. M.* good and lawful men of his bailiwick, hath given notice to *D. Sadler* and *Philippa* his wife, tenants of the capital mansion-house with the appurtenances called *Blaxworth House*, and of the manor of *Blaxworth* in his county, to *Philip Strickland*, tenant of a farm, messuage or tenement, called the *Higher Farm*, and of 193 acres of land, wood, meadow and pasture, more or less, thereto belonging, situate, lying, and being within the parish of *Blaxworth* aforesaid; and also tenant of one other farm, messuage or tenement, called the *Middle Farm*, and of 280 acres of land, wood, meadow and pasture, more or less, thereto belonging, situate, lying and being within the parish aforesaid; and likewise tenant of one other farm, messuage or tenement, called the *Lower Farm*, and 86 acres of land, wood, meadow and pasture, more or less, thereto belonging, situate, lying and being within the parish aforesaid, late in the tenure or occupation of *H. Trenchard*; to *Jehonadab Savage*, tenant of one messuage or tenement, and 80 acres of land, meadow and pasture with the appurtenances thereto belonging and appertaining; to *W. Savage*, tenant of one messuage or tenement, and 16 acres of land, meadow and pasture with the appurtenances thereto belonging, to *P. Hayward*, tenant of three other messuages or tenements, and 80 acres of land, meadow and pasture with the appurtenances thereto belonging, to *J. Dewey*, tenant of another messuage or tenement, and 30 acres of land, meadow and pasture with the appurtenances thereto belonging, to *S. Hadderley*, tenant of one other messuage or tenement, and 7 acres of land, meadow and pasture with the appurtenances thereto belonging, to *J. Jefferies*, tenant of one other messuage or tenement, and 40 acres of land, meadow and pasture with the appurtenances thereto belonging, to *M. Ainer*, widow, tenant of one other messuage or tenant, and 40 acres of land, meadow and pasture with the appurtenances thereto belonging, to *T. Laming*, tenant of one other messuage or tenement, and 30 acres of land, meadow and pasture with the appurtenances thereto belonging and appertaining, to *N. Ery*, tenant of one other messuage or tenement, and 20 acres of land, meadow and pasture with the appurtenances thereto belonging, to *W. Durban*, tenant of one other messuage or tenement, and 12 acres of land, meadow and pasture thereto belonging, to *T. Durrant*, tenant of one other messuage or tenement, and 5 acres of land, meadow and pasture with the appurtenances thereto belonging, to *J. Thomas*, tenant of one other messuage or tenement, and 10 acres of land, meadow and pasture with the appurtenances thereto belonging, to *W. Ainer*, tenant of another messuage or tenement, and 70 acres of land, meadow and pasture with the appurtenances thereto belonging, to *M. Wheeler*, widow, tenant of one other messuage or tenement, and 16 acres of land, meadow and pasture with the appurtenances thereto belonging, to *J. Mannell*, tenant of one other messuage or tenement, and 16 acres of land, meadow and pasture with the appurtenances thereto belonging, to *G. Sbering*, tenant of one cottage and half an acre of land thereto belonging, to *Pelbam*, widow, tenant of one messuage or tenement, and 70 acres of land, meadow and pasture with the appurtenances thereto belonging, to *P. Maver*, tenant of one other messuage or tenement, and three acres of land, meadow and pasture with the appurtenances thereto belonging, to *C. Bills*, tenant of one other messuage or tenement, and 4 acres of land, meadow and pasture with the appurtenances thereto belonging; all and singular which said lands and tenements last mentioned are in the manor of *Blaxworth* aforesaid, and situate, lying and being within the parish of *Blaxworth*

worth aforesaid, of which *George Savage*, Knt. in the writ aforesaid named, on the day of the rendition of the judgment in the said writ specified, and after, was seised in his demesne as of fee, that they and every of them should be before the said Lord the King at the day and place in the said writ contained, to shew, do and receive as that writ commands and requires; and he farther certifies to the same Lord the King, that there are not, nor is, any other tenants or tenant of any other lands or tenements of which the said *George Savage* on the said day of the rendition of the judgment aforesaid, or ever after, was seised in his demesne as of fee in his bailiwick, to whom he could give notice: And hereupon the said *John Adams* produces here in court the letters of administration aforesaid to the said *Sarah*, whereby it sufficiently appears to the court here, that he the said *John Adams* is administrator, and thereof hath the administration, &c. And the same *John Adams* prays execution thereof against the said *Daniel Sadler* and *Philippa* his wife, *Philip Strickland*, *Jebonadab Savage*, *William Savage*, *Peter Hayward*, *James Dewey*, *Simon Hadderley*, *Joseph Jefferies*, *Mary Alner*, widow, *Thomas Laming*, *Nathaniel Fry*, *William Durham*, *Thomas Durrant*, *John Thomas*, *William Alner*, *Margaret Wheeler*, widow, *Joseph Mannell*, *George Sheering*, *Pelbam*, widow, *Peter Maver* and *Christopher Billis*, for the debt and damages aforesaid, on the lands and tenements aforesaid to be levied, to be adjudged to him, &c.

Plea, that the defendant had nothing in the land at the time of the judgment.

And the said *Daniel Sadler* and *Philippa* his wife, *Philip Strickland*, *Jebonadab Savage*, *Peter Hayward*, *James Dewey*, *Simon Hadderley*, *Joseph Jefferies*, *Mary Alner*, widow, *Thomas Laming*, *Nathaniel Fry*, *William Durham*, *Thomas Durrant*, *John Thomas*, *William Alner*, *Margaret Wheeler*, widow, *Joseph Mannell*, *George Sheering*, *Pelbam*, widow, *Peter Maver* and *Christopher Billis*, on the same Friday next after the Octave of St. Martin being solemnly called by *Peter Templeman* their attorney come and say, that the said *John Adams* ought not to have his execution against them for the debt and damages aforesaid on the manor, messuages, cottage, lands and tenements aforesaid, in the return of the said writ of *scire facias* mentioned, whereof they are returned tenants, because they say, that the said *George Savage*, Knt. in the writ aforesaid of *scire facias* mentioned, or any other person or persons to the use of him the said *George Savage* and his heirs at the time of the rendition of the judgment aforesaid in the same writ above-mentioned, or ever after, was not, nor were seised of the same manor, messuages, cottage, lands and tenements, or of any parcel thereof, in his demesne as of fee: And this they are ready to verify: Wherefore they pray judgment if the said *John Adams* ought to have his execution against them for the debt and damages aforesaid on the manor, messuages, cottage, lands and tenements aforesaid, &c.

Repl. That he was seised in fee.

And the said *John Adams* says, that he by any thing by the said *Daniel Sadler* and *Philippa* his wife, *Philip Strickland*, *Jebonadab Savage*, *William Savage*, *Peter Hayward*, *James Dewey*, *Simon Hadderley*, *Joseph Jefferies*, *Mary Alner*, widow, *Thomas Laming*, *Nathaniel Fry*, *William Durham*, *Thomas Durrant*, *John Thomas*, *William Alner*, *Margaret Wheeler*, widow, *Joseph Mannell*, *George Sheering*, *Pelbam*, widow, *Peter Maver* and *Christopher Billis* before alledged, ought not to be delayed from having his execution aforesaid against them for the debt and damages aforesaid on the manor, messuages, cottage, lands and tenements aforesaid in the said return of the writ of *scire facias* aforesaid mentioned, whereof they are returned tenants, because he says, that the said *George Savage*, Knt. on the said day of the rendition of the judgment aforesaid in the writ aforesaid above-mentioned, and long after, was seised of the same manor, messuages, cottage, lands and tenements, in his demesne as of fee, as by the return of the writ aforesaid is above supposed: And this he prays may be inquired of by the country: And the said *Daniel Sadler* and *Philippa* his wife, *Philip Strickland*, *Jebonadab Savage*, *William Savage*, *Peter Hayward*, *James Dewey*, *Simon Hadderley*, *Joseph Jefferies*, *Mary Alner*, widow, *Thomas Laming*, *Nathaniel Fry*, *William Durham*, *Thomas Durrant*, *John Thomas*, *William Alner*, *Margaret Wheeler*, widow, *Joseph Mannell*, *George Sheering*, *Pelbam*, widow, *Peter Maver* and *Christopher Billis*, thereof likewise, &c. Therefore let a jury thereon come before the Lord the King at *Westminster* on Thursday next after the Octave of the Purification of the Blessed Virgin Mary, and who neither, &c. to recognize, &c. because as well, &c. The same day is given to the parties aforesaid there, &c.

Pleas before the Lord the King at Westminster of Hillary term in the 13th year of the reign of the Lord William the Third, now King of England, &c.

Dorset, to wit. **T**HE jury between *John Adams* by *W. Underwood* his attorney, plaintiff; *The Jurata*. and *Daniel Sadler* and *Philippa* his wife, *Philip Strickland*, &c. and *Christopher Billis*, in a plea of debt, whereon a *scire facias*, &c. is respited before the Lord the King at *Westminster* until *Wednesday* next after 15 days of *Easter*, unless the justices of the Lord the King, assigned to take assises in the county aforesaid, shall first come on *Thursday* the 12th day of *March* to *Dorchester*, by the form of the statute, &c. for want of jurors, &c. Therefore let the sheriff have the bodies, &c. The same day is given to the parties aforesaid there, &c. And be it known, that the writ of the said Lord the King thereof on *Thursday* the 12th day of *February* in this same term before the Lord the King at *Westminster* is delivered to the under-sheriff of the county aforesaid, in form of law to be executed at his peril, &c.

Afterwards the day and place within contained before *T. Trevor*, Knt. chief justice of *The Postea*. the Lady *Anne*, now Queen of *England*, &c. of the Bench, and late chief justice of the Lord *William* the Third, late King of *England*, &c. of the Bench, and *R. Tracy*, Esq; one of the barons of the Exchequer of the said Lady the now Queen, and late one of the barons of the Exchequer of the said Lord the late King, justices of the said Lady the Queen, assigned to take assises in the county of *Dorset*, by the form of the statute, &c. comes as well the within named *John Adams*, the natural son of the within written *Sarah Adams*, and administrator as aforesaid of the goods, rights and credits which belonged to the said *Sarah Adams*, as the within written *D. Sadler* and *Philippa* his wife, *P. Strickland*, &c. and *C. Billis*, by their attorney within contained; and the jurors of the jury, whereof mention is within made, being called, some of them, to wit, *D. Banks*, *J. Young*, *B. Hayne*, *J. Dastwood*, *W. Muston*, *B. Nibblingale*, *G. Pope* and *T. Sbiller* come, and on that jury are sworn; and because the rest of the jurors of the same jury have not appeared, therefore others from the by-standers by the sheriff of the county aforesaid hereto elected, at the request of the said *J. Adams*, and by the command of the justices aforesaid, are added anew, whose names to the panel within written are annexed, according to the form of the statute in such case lately made and provided; and the jurors so added anew, to wit, *E. Taunton*, *S. Stevens*, *G. Lester* and *W. Daw*, being called likewise come, who to say the truth of the within contained, together with the other jurors aforesaid hereto first impanelled and sworn, being elected, tried and sworn, say on their oath, that before the said time of the rendition of the judgment aforesaid in the writ aforesaid above specified, to wit, on the 17th day of *November* in the year of the Lord 1657, *George Savage*, Esq; after and at the time of the rendition of the judgment aforesaid, *G. Savage*, Knt. was seised in his demesne as of fee of and in the manor, messuages, cottage, lands and tenements with the appurtenances, in the return of the writ aforesaid above-mentioned; and being so thereof seised, he the said *G. Savage* afterwards, and before the said day of the rendition of the judgment aforesaid, to wit, on the 18th day of the same month of *November* in the year of the Lord 1657 aforesaid, did make, seal, and as his deed deliver his certain indenture to the jurors aforesaid in evidence shewn, bearing date the same day and year last aforesaid, and made between him the said *G. Savage*, by the name of *G. Savage* the younger of *Blaxworth* in the county of *Dorset*, Esq; son and heir of *W. Savage*, late of *Blaxworth* aforesaid, Esq; deceased, of the one part, and *M. Davis* and *G. Savage* the elder, by the names of *M. Davis* of *Sbaston* in the said county of *Dorset*, Esq; and *G. Savage* the elder of *Blaxworth* aforesaid, Esq; of the other part; the tenor of which said indenture follows in these words, to wit, This indenture made, &c. (reciting the indenture so) In witness whereof all the parties to these presents have to each part of these indentures set their hands and seals, the day and year first above-written: And the jurors aforesaid farther say on their oath, that the said several indentures were made and executed for and upon the several considerations in the same respectively mentioned, and that the several considerations in the same respectively mentioned were well and truly paid, done and performed, according to the agreement in the same between the parties thereto mentioned: And the jurors aforesaid farther say on their oath aforesaid, that the said *George Savage* the younger of *Blaxworth*, Esq; in the indenture aforesaid above-named, and *George Savage*, Knt. otherwise called *George Savage* of *Blaxworth* in the county of *Dorset*, Esq; in the writ aforesaid above-named, is one and the same person, and not another nor different; and that the said manor, messuages, cottage, lands and tenements with the appurtenances, in the return of the writ aforesaid above-mentioned, and the said manor of *Blaxworth* in the indenture aforesaid mentioned, and also the messuages, cottage, lands and tenements with the appurtenances in the indenture aforesaid likewise mention-

Special ver-
dict.

ed to be situate and being in the parish of *Blaxworth* in the county of *Dorset*, are the same manor, messuages, cottage, lands and tenements with the appurtenances, and not other nor different: And the jurors aforesaid farther say on their oath aforesaid, that at the time of the making of the indenture aforesaid, the said *George Savage*, Knt. had no issue male of his body begotten, but long before the rendition of the judgment aforesaid in the writ aforesaid above-mentioned, the said *George Savage*, Knt. had issue male by him on the body of the said *Anne* his wife lawfully begotten, to wit, *William Savage* his first begotten son, *George Savage* his second son, and several other sons: And the jurors aforesaid farther on their oath say, that after the rendition of the judgment aforesaid in the writ aforesaid above-mentioned, the said *George Savage*, Knt. the said *Anne* his wife, and the said *William Savage*, the first begotten son of the said *George Savage*, Knt. died, and that the said *William Savage*, the son of the said *George Savage*, Knt. left issue male of his body lawfully begotten, and that the said *George Savage*, the son of the said *George Savage*, Knt. is yet surviving and in full life: But whether on the whole matter by the jurors aforesaid in form aforesaid found, the said *George Savage*, Knt. on the said day of the rendition of the judgment aforesaid in the writ aforesaid above-mentioned, or ever after, was seised of the manor, messuages, cottage, lands and tenements aforesaid, in his demesne as of fee, as by the return of the writ aforesaid is above supposed, and the debt and damages aforesaid ought to be levied on those lands and tenements, and paid to the said *John*, according to the force, form and effect of the recovery aforesaid, or not, the jurors aforesaid are intirely ignorant, and thereon pray the advice and consideration of the justices and court of the said Lady the Queen before the Queen herself: And if upon the whole matter aforesaid, by the jurors aforesaid in form aforesaid found, it shall appear to the justices and court of the said Lady the Queen before the Queen herself, that the said *George Savage*, Knt. on the day of the rendition of the judgment aforesaid in the writ aforesaid above-mentioned, or ever after, was seised of the manor, messuages, cottage, lands and tenements aforesaid, in his demesne as of fee, as by the return of the writ aforesaid is above supposed, and that the debt and damages aforesaid ought to be levied on those lands and tenements, and paid to the said *John*, according to the force, form and effect of the recovery aforesaid, then the same jurors say on their oath, that the said *George Savage*, Knt. on the day of the rendition of the judgment aforesaid in the writ aforesaid above-mentioned, and long after, was seised of the manor, messuages, cottage, lands and tenements aforesaid, in his demesne as of fee, as by the return of the writ aforesaid is above supposed, and that the debt and damages aforesaid ought to be levied on those lands and tenements, and paid to the said *John*, according to the force, form and effect of the recovery aforesaid; and then they assess the damages of the said *John Adams*, by reason of the detention of the debt aforesaid, besides his costs and charges by him about his suit in this behalf expended, to 2 *d.* and for those costs and charges to 40 *s.* But if upon the whole matter aforesaid, by the jurors aforesaid in form aforesaid found, it shall appear to the justices and court of the said Lady the Queen before the Queen herself, that the said *George Savage*, Knt. on the day of the rendition of the judgment aforesaid in the writ aforesaid above-mentioned, or ever after, was not seised of the manor, messuages, cottage, lands and tenements aforesaid, in his demesne as of fee, as by the return of the writ aforesaid is above supposed, and that the debt and damages aforesaid ought not to be levied on those lands and tenements, and paid to the said *John Adams*; then the same jurors say on their oath aforesaid, that the said *George Savage*, Knt. on the said day of the rendition of the judgment aforesaid in the writ aforesaid above-mentioned, or ever after, was not seised of the manor, messuages, cottage, lands and tenements aforesaid, in his demesne as of fee, and that the debt and damages aforesaid ought not to be levied on those lands and tenements, and paid to the said *John*, as the said *Daniel Sadler* and *Philippa* his wife, *Philip Strickland*, *Jebonadab Savage*, *William Savage*, *P. Hayward*, *J. Dewey*, *S. Hadderley*, *J. Jefferies*, *M. Alner*, *T. Laming*, *F. Fry*, *W. Durban*, *Tbo. Durrant*, *J. Thomas*, *W. Alner*, *M. Wheeler*, *J. Man- nel*, *G. Sherring*, *Pelbam*, *P. Maver* and *Christopher Billis*, have within by pleading thereon alledged: But because the court, &c.

Salk. 601.
Mod. Caf.
134, 199.

Burr and Atwood.

ANNE, &c. To the sheriff of Kent, greeting: Whereas in the record and proceedings of the court of the Lord William the Third, late King of England, of the town and parish of Maidston, against James Burr, the bail of James Drewett, in a plaint of debt of 120 l. levied against the said J. Drewett by J. Atwood in the court of the said late King and the Lady Mary late Queen of England, of the town and parish of Maidston aforeaid, before the then mayor of the town and parish of Maidston aforeaid, upon which said plaint judgment in the said court of the said late King and of the said late Queen of the town and parish of Maidston aforeaid is given against the said James Drewett for the said 120 l. debt, and 58 s. 2 d. for damages by reason of the detention of that debt, as it is said, a manifest error hath happened, to the great damage of the said James Burr, as by his complaint we have understood, the record and proceedings of which said judgment we have lately caused to be brought before us for certain causes of error, as it appears to us on record, and the same James Burr hath thereon duly assigned errors on record, as by the inspection of the record thereof appears likewise to us: Therefore we command you, that by good and lawful men of your bailiwick you give notice to the said John Atwood, that he be before us from the day of St. Michael in three weeks wheresoever, &c. to hear the record and proceedings aforeaid, if he shall think fit, and farther to do and receive what our same court before us shall then and there consider concerning him in this behalf; and have there then the names of those by whom you shall give him notice, and this writ. Witness J. Holt, Knt. at Westminster 16th day of June in the second year of our reign.

Scire facias
to hear errors
on a writ of
error on a
judgment in a
scire facias in
an inferior
court.

Carr and Oldys.

Easter 5 Geo. Roll 378.

Otherwise, as it appears in Easter term in the 4th year of King George, Roll 380, it is contained thus: Middlesex, to wit, the sheriff was commanded, whereas Joseph Gurney, late of Lower Shadwell in the county aforeaid, glazier, and John Oldys, late of Salisbury Street in Redriffe in the county of Surry, sail-maker, lately in the court of the Lord the King here, to wit, in Trinity term in the third year of the reign of the said Lord the King, before Peter King, Knt. and his companions, justices of the said Lord the King of the Bench here at Westminster, acknowledged, and each of them acknowledged, they owed to Mary Carr the sum of 30 l. which said sum of 30 l. the same Joseph and John for themselves and their heirs consented and granted, and each of them for himself and his heirs consented and granted, should be made of their and each of their lands and chattels, and levied to the use and behoof of the same Mariba: And whereas Robert Miles, late of the parish of Stepney in the county of Middlesex aforeaid, ropemaker, in the same term before the same justices of the said Lord the King in the court of the said Lord the King here acknowledged he owed to the same Mariba the sum of 60 l. which said sum of 60 l. the same Robert for himself and his heirs consented and granted should be made of his lands and chattels, and levied to the use and behoof of the same Mariba, on this condition, that if it should happen that judgment should be given in the same court of the said Lord the King here for the said Mariba against the said Robert in a certain plea of trespass on the case to the damage of 30 l. by the said Mariba against the said Robert in the same court of the said Lord the King here prosecuted, then the same Robert all the damages, which to the said Mariba against the said Robert in the same court of the said Lord the King here in the plea aforeaid should be adjudged, would satisfy, or his body in execution of such judgment to the prison of the Fleet would render; and altho' the said Mariba in Michaelmas term in the 4th year of the reign of the said Lord the now King, &c. before the said Peter King, Knt. and his companions, justices of the said Lord the King of the Bench here, at Westminster aforeaid did recover against the said Robert 33 l. which were adjudged to the same Mariba, in the same court of the said Lord the King here, for her damages which she had by reason of the trespass on the case aforeaid, whereof he is convicted, as by the record and proceedings thereof remaining in the same court of the said Lord the King here manifestly appears: Nevertheless the said Robert the damages aforeaid to the said Mariba hath not satisfied, nor his body in execution

The entry of
a *scire facias*
against the
bail in C. B.

- of such judgment to the prison of the *Fleet* render'd, according to the form of the recognisance aforesaid, as by the suggestion of the said *Martha* the King had understood; and because, &c. that by good, &c. he should give notice to the said *Joseph*, *John* and *Robert*, that they should be here at this day, to wit, from the day of *Easter* in 15 days, to shew if, &c. to wit, the said *Joseph*, why the said 30*l.* by him in form aforesaid acknowledged, of his lands and chattels, and the said *John*, why the said 30*l.* by him in form aforesaid acknowledged, of his lands and chattels, and the said *Robert*, why the 60*l.* by him in form aforesaid acknowledged, of his lands and chattels, ought not to be made, and to the use and behoof of the said *Martha* levied, according to the form of the recognisance aforesaid, if, &c. And now here on this day comes the said *Martha* by *Richard Cox* her attorney, and offers herself the fourth day against the said *Joseph*, *John* and *Robert* in the said plea; and they being solemnly called do not come; and the sheriff now returns, that the said *Joseph*, *John* and *Robert* have nothing, nor hath any of them any thing, &c. neither are they found, nor is any of them found, &c. Therefore as before the sheriff is commanded, that by good, &c. he give notice to the said *Joseph*, *John* and *Robert*, that they be here from the day of *Easter* in five weeks, to shew in form aforesaid, &c. On which day here comes the said *Martha* by her attorney aforesaid; and the said *John* by *Simon Lowth* his attorney likewise comes; and the said *Joseph* and *Robert*, altho' solemnly called, do not come; and the sheriff as before now returns, that the said *Joseph*, *John* and *Robert* have nothing, nor hath any of them any thing, &c. neither are they found, nor is any of them found, &c.
- And hereupon the said *Martha* prays execution against the said *Joseph*, *John* and *Robert*, to wit, against the said *Joseph* for the said 30*l.* by him in form aforesaid acknowledged, and against the said *John* for the said 30*l.* by him in form aforesaid acknowledged, and also against the said *Robert* for the said 60*l.* by him in form aforesaid acknowledged, according to the form of the recognisance aforesaid, to be adjudged to her, &c. Therefore it is considered, that the said *Martha* have execution against the said *Joseph* and *Robert*, to wit, against the said *Joseph* for the said 30*l.* by him in form aforesaid acknowledged, and against the said *Robert* for the said 60*l.* by him in form aforesaid acknowledged, by the default of them the said *Joseph* and *Robert*, &c.
- And the said *John* by his attorney aforesaid prays leave to imparl thereto here until on the morrow of the Holy *Trinity*; and he hath, &c. The same day is given to the said *Martha* here, &c. On which day comes here as well the said *Martha* by her attorney aforesaid, as the said *John* by his attorney aforesaid: And the said *John* farther prays leave to imparl thereto here until on the Octave of St. *Hillary*; and he hath, &c. The same day is given to the said *Martha* here, &c. On which day comes here as well the said *Martha* by her attorney aforesaid, as the said *John* by his attorney aforesaid: And the said *John* farther prays leave to imparl thereto here until from the day of *Easter* in 15 days; and he hath, &c. The same day is given to the said *Martha* here, &c. On which day comes here as well the said *Martha* by her attorney aforesaid, as the said *John* by his attorney aforesaid: And the said *John* says, that the said *Martha* ought not to have her execution against him for the said 30*l.* by virtue of the recognisance aforesaid, because he says, that there is no such record of the recovery against the said *Robert* of the damages aforesaid in the declaration aforesaid above-mentioned, as the said *Martha* hath above by declaring alledged: And this he is ready to verify: Wherefore he prays judgment if the said *Martha* ought to have her execution against him the said *John* for the said 30*l.* by virtue of the recognisance aforesaid, &c.
- And the said *M. Carr* says, that she by any thing by the said *J. Oldys* above in pleading alledged ought not to be precluded from having her execution aforesaid against him the said *John* for the said 30*l.* by virtue of the recognisance aforesaid, because she says, that in the said court of the said Lord the King here before the said *Peter King*, Knt. and his companions, justices of the said Lord the King, there is such record of the recovery against the said *Robert* of the damages aforesaid, as by the said writ of *scire facias* is above supposed, as by the record thereof, among the records of the same court of the said *Michaelmas*-term in the 4th year aforesaid, Roll 505, in the same court remaining, is manifest and appears: And this the same *Martha* is ready to verify by that record: And she prays that that term and roll by the court of the said Lord the King here may be seen and inspected, &c. and because she hath not now that record ready here in court, the said *M. Carr* is order'd to have that record by her searched out on the morrow of the Ascension of our Lord: The same day is given to the said *John Oldys* here, &c. On which day here comes as well the said *Martha* as the said *John Oldys* by their attorneys aforesaid; and upon this the term and record aforesaid being seen and inspected, and by the justices here examined, it sufficiently appears to the same justices here, that in the said court of the said Lord the King here before the said *P. King*, Knt. and his companions, justices of the said Lord the King, there is such record of the recovery against the said *R. Miles* of the damages aforesaid, as by the said writ of *sci. fac.* is above supposed: Therefore it is considered, that the said *M.* have execution against the said *J. Oldys* for the said 30*l.* by virtue of the recognisance aforesaid: And it is farther considered, that the said *M.* do recover against the said *J. O.* 90*s.* to the same *M.* by her assent

assent, by the court here adjudged for her costs and charges which she hath had by reason of the delay of the execution of the judgment aforesaid, according to the form of the statute thereof lately made and provided.

Poulson against Francia.

England, to wit. **T**HE Lady the Queen hath sent to the sheriffs of London her writ close *Scire facias* in these words, to wit, *Anne* by the grace of God, of Great Britain, for an admistratrix on a judgment in debt in C. B. affirmed in K. B. France and Ireland Queen, defender of the faith, &c. To the sheriffs of London, greeting: Whereas *Gilbert Poulson*, Gent. lately in our court before *Thomas Lord Trevor*, Baron of *Bromham*, and his companions, our justices of the Bench, by our writ, and by the judgment of the same court, hath recovered against *Simon Francia* late of London aforesaid, merchant, 1000 *l.* debt, and also 15 *l.* 10 *s.* for his costs and charges by him about his suit in that behalf sustained, whereof the said *Simon* is convicted, as by the inspection of the record and proceedings thereof which we have caused to be brought before us by virtue of our writ to correct error, prosecuted by the said *Simon* of and upon the premisses, and which in our court before us being in all things affirmed now remaining appears to us on record, as also 14 *l.* which to the same *Gilbert* in our same court before us, according to the form of the statute in such case made and provided, were adjudged for his damages, costs and charges, which he hath sustained by reason of the delay of the execution of the judgment aforesaid, on pretence of prosecuting our said writ to correct error, by the said *Simon* of and upon the premisses as aforesaid prosecuted, and whereof the said *Simon* is also convicted, as it likewise appears to us on record: And whereas the said *Gilbert Poulson* afterwards, to wit, on the first day of *March* in the 12th year of our reign at London aforesaid died intestate, the debt and damages, costs and charges aforesaid, or any part thereof, being not paid; after whose death, to wit, on the fifth day of *March* in the 12th year of our reign aforesaid, at London aforesaid, administration of all and singular the goods, rights and credits which belonged to the said *Gilbert Poulson* at the time of his death, by *Thomas* by divine providence archbishop of *Canterbury*, primate and metropolitan of all England, to whom the commission of the administration aforesaid did of right belong, to *Elizabeth Poulson*, the widow and relict of the said *Gilbert Poulson*, in due form of law was committed: And now on the behalf of the said *Elizabeth* in our court before us we have understood, that altho' the judgment aforesaid is in form aforesaid given and affirmed, execution nevertheless for the debt, damages, costs and charges aforesaid, yet remains to be made to her: Wherefore the said *Elizabeth* hath besought us to grant her her proper remedy in this behalf; and we being willing that what is just in this behalf should be done, command you, that by good and lawful men of your bailiwick you give notice to the said *Simon Francia*, that he be before us from the day of *Easter* in five weeks wheresoever we shall then be in England, to shew if he hath or can say any thing, why the said *Elizabeth* ought not to have her execution against him for the debt, damages, costs and charges aforesaid, according to the force, form and effect of the recovery aforesaid, if he shall think fit, and farther to do and receive what our same court before us shall then and there consider concerning him in this behalf; and have there then the names of those by whom you shall give him notice, and this writ. Witness *T. P. Knt.* at *Westminster* 14th day of *April* in the 13th year of our reign.

Holt. Ventris.

On which day before the Lady the Queen at *Westminster* comes the said *Elizabeth* in her The return: proper person; and the sheriffs of London, to wit, *T. F. Knt.* and *J. S. Knt.* on that day return, that they by virtue of the writ aforesaid to them directed by *P. W.* and *J. D.* good and lawful men of their bailiwick, had given notice to the said *Simon* that he be before the Lady the Queen at the day and place aforesaid, to shew, &c. according to the tenor of the writ aforesaid; and the said *Simon* on the same day being solemnly called in his proper person likewise comes, and hereupon the said *Elizabeth* prays execution against the said *Simon* for the debt, damages, costs and charges aforesaid, to be adjudged to her, &c. And the said *Simon* says, that the said *Elizabeth* ought not to have her execution against him for the debt, damages, costs and charges aforesaid, because he says, that the said administration of all and singular the goods, rights and credits, which belonged to the said *Gilbert Poulson* at the time of his death, was by the said *Elizabeth* falsly and fraudulently obtained, to wit, at *Westminster* in the county of *Middlesex*: And this he is ready to verify: Wherefore he prays judgment if the said *Elizabeth* ought to have her execution aforesaid against him the said *Simon*, &c. *Plea, that the administration was fraudulently obtained.*

5 L

And

Demurrer.

And the said *Elizabeth* says, that the plea aforesaid by the said *Simon* in bar of the execution of her the said *Elizabeth* to be had for the debt, damages, costs and charges aforesaid above pleaded, and the matter in the same contained, are not sufficient in law to preclude her the said *Elizabeth* from having her execution aforesaid against the said *Simon*; to which said plea, in manner and form aforesaid pleaded, the same *Elizabeth* hath no necessity, nor is by the law of the land obliged, to answer: And this she is ready to verify: Wherefore the same *Elizabeth* prays judgment, and her execution for the debt, damages, costs and charges aforesaid, to be adjudged to her, &c.

Joinder.

And the said *Simon* says, that the plea aforesaid by him the said *Simon* in manner and form aforesaid pleaded, and the matter in the same contained, are good and sufficient in law to preclude her the said *E.* from having her execution against him the said *Simon* for the debt, damages, costs and charges aforesaid; which said plea, and the matter in the same contained, the same *Simon* is ready to verify and prove, as the court, &c. And because the said *E.* doth not answer to that plea, nor hitherto in any wise deny it, the same *Simon* as before prays judgment, and that the said *E.* may be precluded from having execution against him the said *Simon*: But because the court of the said Lady the Queen now here are not yet advised to give their judgment of and upon the premisses, day therefore is given to the parties aforesaid before the Lady the Queen until to hear their judgment of and upon the premisses, because the court of the said Lady the Queen now here thereof not yet, &c.

The entry of
a scire facias
against the
bail on a re-
cognisance on
a clausum fre-
git.

THE sheriff was commanded: Whereas *W. J.* late of and *W. G.* late of lately in the court of the Lord the now King here, to wit, in *Michaelmas* term in the 4th year of the reign of the said Lord the King, before *P. K. Kt.* and his companions, justices of the said Lord the King of the Bench here, to wit, at *Westminster*, have acknowledged, and each of them hath acknowledged, to owe to *T. T.* the sum of 100*l.* which said sum of 100*l.* the same *W. J.* and *W. G.* for themselves and their heirs have consented and granted, and each of them for himself and his heirs hath consented and granted, shall be made of their and each of their lands and chattels, and levied to the use and behoof of the same *T. Taylor*: And whereas *T. C.* late of *London*, merchant, in the same term before the same justices of the said Lord the King in the same court of the said Lord the King of the Bench here, to wit, at *Westminster* aforesaid, hath acknowledged, that he owes to the same *T. T.* the sum of 200*l.* which said sum of 200*l.* the same *T. C.* for himself and his heirs hath consented and granted shall be made of his lands and chattels, and levied to the use and behoof of the same *T. Taylor*, on this condition, that if it should happen that judgment should be given in the same court of the said Lord the King of the Bench here for the said *T. T.* against the said *T. C.* in a certain plea of trespass on the case, to the damage of 100*l.* by the said *T. T.* against the said *T. C.* in the same court of the said Lord the King of the Bench here prosecuted, then the same *T. C.* all the damages, which to the said *T. T.* against the said *T. C.* in the same court of the said Lord the King of the Bench here in the said plea should be adjudged, should satisfy, or his body on that account to the prison of the *Fleet* should render; and altho' the said *T. T.* in *Trinity* term in the 4th year of the reign of the said Lord the now King before the said *P. King*, Knt. and his companions, justices of the said Lord the King of the Bench here, to wit, at *Westminster* aforesaid, by the consideration of the same court hath recovered against the said *T. C.* 93*l.* 10*s.* which to the same *T. T.* in the same court of the said Lord the King of the Bench here were adjudged for his damages which he hath sustained by reason of the trespass on the case aforesaid, whereof he is convicted, as by the record and proceedings thereof, which the said Lord the King hath lately for certain reasons caused to be brought into the court of the said Lord the King before the King himself, and which in the same court of the said Lord the King before the King himself in all things affirmed now remain, appears on record: Nevertheless the said *T. C.* the damages aforesaid to the said *T. T.* hath not satisfied, nor his body on that account to the prison of the *Fleet* render'd, as the King hath by the suggestion of the said *T. T.* understood; and because, &c. that by good, &c. he should give notice to the said *W.* and *W.* and *T. C.* that they should be here on this day, to wit, on the Octave of the Purification of the Blessed *Mary*, to shew if any thing, &c. to wit, to the said *William*, why the said 100*l.* by him in form aforesaid acknowledged, of his lands and chattels, to the said *W. G.* why the said 100*l.* by him in form aforesaid acknowledged, of his lands and chattels, and to the said *T. C.* why the said 200*l.* by him in form aforesaid acknowledged, of his lands and chattels, ought not to be made, and to the use and behoof of the said *T. T.* levied, according to the form of the recognisance aforesaid, if, &c. And now here on this day comes the said *T. T.* by *R. Bicknell* his attorney, and offers himself the 4th day against the said *W. J.* *W. G.* and *T. C.* in the plea aforesaid; and they being solemnly called do not come; and the sheriff, to wit, *John Eyles*, Bart. and *John Tass*, Knt. now returns, that they have nothing, &c. nor are found, &c. Therefore as before the sheriff is commanded, that by good, &c. he give notice to the said *W. J.* *W. G.* and *T. C.* that they should be here on this day, to wit, from the day of *Easter* in 15 days, to shew in form aforesaid, &c. if, &c. And now on this day comes the said *T. T.* by his attorney aforesaid, and offers himself the 4th day against the said *W. J.* *W. G.* and *T. C.* in the plea aforesaid; and one of them, to wit, the said *T. C.* altho' solemnly called on the 4th day of plea doth not come,

The principal
makes default.

come, but hath made default; and the said *W. J.* and *W. G.* by *A. B.* their attorney come; The bail ap-
and the sheriff, to wit, *J. Eyles*, Bart. and *J. Tash*, Knt. as before now returns, that they
have nothing, &c. nor are found, &c. And upon this the said *T. T.* prays execution against
the said *T. C.* for the said 200*l.* by him in form aforesaid acknowledged, to be adjudged to
him by the default of him the said *T. C.* &c. Therefore it is considered, that the said *T. T.*
may have execution against the said *T. C.* for the said 200*l.* by him in form aforesaid ac-
knowledged by the default of him the said *T. C.* &c. And hereupon the said *T. T.* prays
execution against the said *W. J.* for the said 100*l.* by him in form aforesaid acknowledged,
and against the said *W. G.* for the said 100*l.* by him in form aforesaid acknowledged,
to be adjudged to him, &c.

And the said *W. J.* and *W. G.* by *E. Clive* their attorney come and pray *oyer* of the said *Oyer of the*
writs of *scire facias* aforesaid, and to them they are read in these words, to wit, *George* writs of *scire*
by the grace of God, &c. To the sheriff of *Middlesex*, greeting: Whereas *W. J.* late facias.
of and *W. G.* late of *London*, Gent. lately in our court, to wit, in *Michaelmas* term in
the 4th year of our reign, before *P. K.* Knt. and his companions, our justices of the Bench,
have acknowledged, and each of them hath acknowledged, to owe to *T. T.* the sum of 100*l.*
which said sum of 100*l.* the same *W. J.* and *W. G.* for themselves and their heirs have con-
sented and granted, and each of them for himself and his heirs hath consented and granted,
shall be made of their and each of their lands and chattels, and to the use and behoof of the
same *T. T.* levied: And whereas *T. C.* late of *London*, merchant, in the same term before our
same justices in our same court hath acknowledged to owe to the same *T. T.* the sum of
200*l.* which said sum of 200*l.* the same *T. C.* for himself and his heirs hath consented and
granted shall be made of his lands and chattels, and to the use and behoof of the same *T. T.*
levied, upon this condition, that if it should happen that judgment in our same court should
be given for the said *T. T.* against the said *T. C.* in a plea of trespass on the case, to the dam- The condi-
age of 100*l.* by the said *T. T.* against the said *T. C.* in our same court prosecuted, then tion.
the same *T. C.* all the damages, which to the said *T. T.* against the said *T. C.* in our same court
in the said plea should be adjudged, should satisfy, or his body on that account to the prison
of the *Fleet* should render; and altho' the said *T. T.* in *Trinity* term in the 4th year of our
reign, before the said *P. K.* Knt. and his companions, our justices of the Bench aforesaid, at Judgment a-
Westminster, by the consideration of the same court did recover against the said *T. C.* gainst the
93*l.* 10*s.* which to the same *T. T.* in the same court of the said Lord the King of the Bench principal.
here were adjudged for his damages which he had sustained by reason of the trespass on the
case aforesaid, and whereof he is convicted, as by the record and proceedings thereof, which
into the court of the said Lord the King before the King himself the said Lord the King for
certain reasons hath caused to be brought, and which in the same court of the said Lord the
King before the King himself in all things affirmed now remain, appears on record: Neverthe-
less the said *T. C.* the damages aforesaid to the said *T. T.* hath not satisfied, nor his body on
that account to the prison of the *Fleet* render'd, as by the suggestion of the said *T. T.* we have
understood; and because we are willing that those things, which are in our court before our
justices at *Westminster* lawfully transacted and acknowledged, should be carried into due exe-
cution, we command you, that by good and lawful men of your bailiwick you give notice
to the said *William*, and *W.* and *T. C.* that they be before our justices at *Westminster* on the
Octave of the Purification of the Blessed *Mary*, to shew if they have or can say any thing
for themselves, to wit, to the said *W. J.* why the said 100*l.* by him in form aforesaid ac-
knowledged, of his lands and chattels, and to the said *W. G.* why the said 100*l.* by him in
form aforesaid acknowledged, of his lands and chattels, and to the said *T. C.* why the 200*l.*
by him in form aforesaid acknowledged, of his lands and chattels, ought not to be made, and
to the use and behoof of the said *T. T.* levied, according to the form of the recognisance a-
foresaid, if they shall think fit; and have there the names of those by whom you shall give
them notice, and this writ. Witness *P. K.* Knt. at *Westminster*, 23d *January* in the 6th year
of our reign. *George*, (as in the other unto) we commanded you, as we have before com-
manded you, returnable from the day of *Easter* in 15 days, and tested 12 *February* in the
6th year: They pray likewise *oyer* of the recognisance aforesaid in the said writs of *scire facias* *Oyer of the*
specified; and to them it is read in these words, to wit, *Mich.* 4th of *George*, *London*, to wit, recognisance.
the sheriffs were commanded, that they should take *T. C.* late of *London*, merchant, if, &c.
and safely, &c. so that they might have his body here on this day, to wit, on the morrow of
All Souls. to answer to *T. T.* in a plea, why with force and arms he broke the close of him
the said *T. T.* at *London*, and other outrages, &c. to the great damage, &c. and against the
peace, &c. and also in a certain plea of trespass on the case on a promise, to the damage of
the said *T. T.* 100*l.* And now here on this day come *W. J.* of *London* and *W. G.* of
London, Gent. in their proper persons, before *P. K.* Knt. and his companions, justices of the
Bench, and have acknowledged, and each of them hath acknowledged, to owe to the said
T. T. 100*l.* which said sum of 100*l.* the same *William* and *William* for themselves and their
heirs have consented and granted, and each of them for himself and his heirs hath consented
and granted, shall be made of their and each of their lands and chattels, and to the use
and behoof of the same *T. T.* levied: And also now here on this day comes the said
Thomas C. in his proper person before the same justices, and hath acknowledged
to

Oyer of the
original and
judgment a-
gainst the
principal.

to owe to the said T. T. the sum of 200*l.* which said sum of 200*l.* the same T. C. for himself and his heirs hath consented and granted shall be made of his lands and chattels, and to the use and behoof of the same T. T. levied, upon this condition, that if it shall happen that judgment in the same court here shall be given in the said plea of trespass on the case for the said T. T. against the said T. C. then the same T. C. all the damages, which to the said T. T. in the same court here in the said plea of trespass on the case shall be adjudged, shall satisfy, or his body in execution of the judgment to the prison of the Fleet shall render, &c. They also pray oyer of the original writ, and of the judgment thereon given in the said writs of *scire facias* specified, and to them they are read in these words, to wit, *George* by the grace of God, &c. To the sheriffs of *London*, greeting: If T. T. shall make you secure to prosecute his suit, then put by surety and safe pledges T. C. late of *London*, merchant, that he be before our justices at *Westminster* from the day of *Easter* in 15 days, to shew, why whereas the said T. C. after the first day of *May* in the year of the Lord 1705, to wit, on the 20th day of *March* in the year of the Lord 1713, at *London* aforesaid in the parish of *St. Mary le Bow* in the ward of *Cheape*, made his certain note in writing, called a promissory note, with his own proper hand thereto subscribed, bearing date the same day and year last mentioned, and that note to the same T. T. then and there delivered; by which said note the said T. C. promised to pay to the said T. T. or bearer, the sum of 74*l.* 10*s.* four months after the date of that note, for value received; by reason whereof, and by force of the statute in such case lately made and provided, the same T. C. became liable to pay to the said T. T. the same sum of money, according to the tenor of the note aforesaid; and being so liable, the said T. C. in consideration thereof afterwards, the same day and year last mentioned, at *London* aforesaid in the parish and ward aforesaid, assumed upon himself, and to the same T. T. then and there faithfully promised to pay him the same sum of money, according to the tenor of the note aforesaid: And whereas also the said T. C. afterwards, to wit, on the said 20th day of *March* in the year of the Lord 1713, at *London* aforesaid in the parish and ward aforesaid, was indebted to the said T. T. in the sum of 100*l.* of lawful money of *Great Britain*, for divers goods, wares and merchandizes, to the said T. C. by the said T. T. at the special instance and request of him the said T. C. before then sold and delivered; and being so therein indebted, the said T. C. in consideration thereof afterwards, to wit, on the said 20th day of *March* in the year of the Lord 1713 aforesaid, at *London* aforesaid in the parish and ward aforesaid, assumed upon himself, and to the same T. T. then and there faithfully promised to pay to the same T. T. the said 100*l.* when he should be thereto after required: And whereas also the said T. C. afterwards, to wit, on the said 20th day of *March* in the year of the Lord 1713 aforesaid, at *London* aforesaid in the parish and ward aforesaid, in consideration that the same T. T. at the like instance and request of him the said T. C. had sold and delivered to the said T. C. other goods, wares and merchandizes, assumed upon himself, and to the same *Thomas C.* then and there faithfully promised to pay to the same T. T. such sums of money, as the goods, wares and merchandizes last mentioned, at the time of the sale and delivery of the same were reasonably worth: And the said T. T. in fact says, that the goods, wares and merchandizes last mentioned, at the time of the sale and delivery of the same were reasonably worth other 100*l.* of like lawful money, to wit, at *London* aforesaid in the parish and ward aforesaid, whereof the same T. C. from the said T. T. then and there had notice: Nevertheless the said T. C. his several promises and assumptions aforesaid in form aforesaid made not regarding, but contriving and fraudulently intending the same T. T. in this behalf craftily and subtilly to deceive and defraud, the said several sums of money, or any penny thereof, to the same T. T. altho' to do it the said T. C. on the 21st day of *September* in the year of the Lord 1714, at *London* aforesaid in the parish and ward aforesaid, by the same T. T. was required, hath not paid, or in any wise for the same hitherto contented, but hath altogether refused, and yet doth refuse, to pay him the same, to the damage of the said T. T. 100*l.* as it is said; and have there the names of the pledges, and this writ. Witness Ourselves at *Westminster* 8th day of *April* in the 5th year of our reign. Pleas inrolled at *Westminster* before *Peter King*, Knt. and his companions, justices of the Lord the King of the Bench of *Easter* term in the 4th year of the reign of the Lord *George*, by the grace of God of *Great Britain*, *France* and *Ireland* King, defender of the faith, &c. Roll 363. *London*, to wit, T. C. late of *London*, merchant, was attached to answer to T. T. in a plea of trespass on the case, &c. And whereon the said T. T. by *Robert B.* his attorney complains, why whereas the said T. C. after the first day of *May* in the year of the Lord 1705, to wit, on the 20th day of *March* in the year of the Lord 1713, at *London* aforesaid, to wit, in the parish of *St. Mary le Bow* in the ward of *Cheape*, made his certain note in writing, called a promissory note, with his own proper hand thereto subscribed, bearing date the same day and year last mentioned, and that note to the same *Thomas T.* then and

and there delivered; by which said note the said T. C. promised to pay to the same T. T. or bearer, the sum of 74*l.* 10*s.* four months after the date of that note, for value received; by reason whereof, and by force of the statute in such case lately made and provided, the same T. C. became liable to pay the same sum of money, according to the tenor of the note aforesaid; and being so liable, the said T. C. in consideration thereof afterwards, the same day and year last mentioned, at *London* aforesaid in the parish and ward aforesaid, assumed upon himself, and to the same T. T. then and there faithfully promised to pay him the same sum of money, according to the tenor of the note aforesaid: And whereas also the said T. C. afterwards, to wit, on the said 20th day of *March* 1713 aforesaid, at *London* aforesaid in the parish and ward aforesaid, was indebted to the same T. T. in 100*l.* of lawful money of *Great Britain*, for divers goods, wares and merchandizes to the same T. C. at the special instance and request of him the said T. C. before then sold and delivered; and being so therein indebted, the same T. C. in consideration thereof afterwards, to wit, the said 20th day of *March* 1713 aforesaid, at *London* aforesaid in the parish and ward aforesaid, assumed on himself, and to the same T. T. then and there faithfully promised to pay to the same T. T. the said sum of 100*l.* when he should be thereto after required: And whereas also the said T. C. afterwards, to wit, on the said 20th day of *March* 1713, at *London* aforesaid in the parish and ward aforesaid, in consideration that the same T. T. at the like instance and request of him the said T. C. had sold and delivered to the same T. C. other goods, wares and merchandizes, assumed on himself, and to the same T. T. then and there faithfully promised to pay to the same T. T. such sums of money, as the goods, wares and merchandizes last mentioned, at the time of the sale and delivery of the same were reasonably worth: And the said T. T. in fact says, that the goods, wares and merchandizes last mentioned, at the time of the sale and delivery of the same were reasonably worth other 100*l.* of like lawful money, to wit, at *London* aforesaid in the parish and ward aforesaid, whereof the same T. C. from the said T. T. then and there had notice: Nevertheless the said T. C. his several promises and assumptions aforesaid in form aforesaid made not regarding, but contriving and fraudulently intending the same T. T. in this behalf craftily and subtilly to deceive and defraud, the said several sums of money, or any penny thereof, to the same T. T. altho' to do it the said T. C. on the 21st day of *September* 1714, at *London* aforesaid in the parish and ward aforesaid, by the same T. T. was required, hath not paid, or for the same hitherto in any wise contented, but hath altogether refused, and yet doth refuse, to pay him the same, to the damage of the said T. T. 100*l.* And therefore he produces the suit, &c. And the said T. C. by *E. Clive*, his attorney comes and defends the force and injury when, &c. and says, that the said T. T. ought not to have his action aforesaid thereof against him, because he says, that well and truly it is, that he did assume upon himself in manner and form as the said T. T. against him by his declaration aforesaid hath above supposed; but the same T. C. farther says, that after the making of the several promises and assumptions aforesaid above supposed to be made, to wit, on the 21st day of *September* 1714 aforesaid, he the said T. C. at *London* aforesaid in the parish and ward aforesaid, gave and delivered to the said T. T. five hogsheds of tobacco, in full satisfaction and discharge of the several promises and assumptions aforesaid, and of all the money in the same mentioned; which said five hogsheds of tobacco, he the said T. T. in full satisfaction and discharge of the several promises and assumptions aforesaid, and of all the money in the same mentioned, from the same T. C. had and received: And this he is ready to verify: Wherefore he prays judgment if the said T. T. ought to have or maintain his action aforesaid thereof against him: And the said T. T. says, that he by any thing by the said T. C. before alledged ought not to be precluded from having his action aforesaid thereof against him the said T. C. because he says, that the same T. C. did not give and deliver to the said T. T. the said five hogsheds of tobacco, in full satisfaction and discharge of the several promises and assumptions aforesaid, or of the money in those promises and assumptions mentioned, as the said T. C. hath in pleading alledged: And this he prays may be inquired of by the country: And the said T. C. says, that the plea aforesaid by him the said T. T. in manner and form aforesaid above in replying pleaded, and the matter in the same contained, are not sufficient in law for him the said T. T. to maintain his action aforesaid thereof against him the said T. C. had, to which the said T. C. hath no necessity, nor is by the law of the land obliged in any manner, to answer: And this he is ready to verify: Wherefore for want of a sufficient replication in this behalf, the said T. C. as before prays judgment, and that the said T. T. may be precluded from having his action aforesaid thereof against the said T. C. And the said T. T. says, that the plea aforesaid by him the said T. T. in manner and form aforesaid above in replying pleaded, and the matter in the same contained, are good and sufficient in law for him the said T. T. to maintain the action of him the said T. T. against the said T. C. had; which said plea, and the matter in the same contained, the said T. T. is ready to verify and prove, as the court, &c. And because the said T. C. to that plea doth not answer, nor hitherto in any wise deny it, the said T. T. as before prays judgment and his damages, by reason of the non-performance of the promises and assumptions aforesaid: And because the justices here will advise themselves of and upon the premises before they give judgment thereon, day is given to the parties aforesaid here until on the morrow of the Ascension of the Lord to hear their judgment

ment thereon, because the same justices here thereof not yet, &c. On which day comes here as well the said T. T. as the said T. C. by their attorneys aforesaid; and upon this the premisses being seen, and by the justices here fully understood, it seems to the same justices here, that the plea aforesaid by the said T. T. in manner and form aforesaid above in replying pleaded, and the matter in the same contained, are good and sufficient in law for him the said T. T. to maintain the action of him the said T. T. aforesaid against the said T. C. had, as the same T. T. hath above alledged; wherefore the said T. T. ought to recover his damages by reason of the premisses against the said T. C. But because it is unknown what damages the said T. T. hath sustained by reason of the premisses, the sheriffs are commanded, that by the oath of good and lawful men of their bailiwick they diligently inquire what damages the said T. T. hath sustained, as well by reason of the premisses as for his costs and charges by him about his suit in this behalf expended; and the inquisition which they shall thereof make, they certify here on the morrow of the Holy Trinity under the seal, &c. and the seals, &c. On which day here comes the said T. T. by his attorney aforesaid; and the sheriffs, to wit, *Peter Delme*, Knt. and *Harcourt Masters*, Knt. now return here a certain inquisition taken before them at the *Guild-hall* of the city of *London*, situate in the parish of *St. Lawrence* in the *Old Jewry* in the ward of *Cheape* of the same city, on the 30th day of *May* last past by the oath of 12, &c. by which it is found, that the said T. T. hath sustained damages by reason of the premisses, besides his costs and charges by him about his suit in this behalf expended, to 76*l.* 11*s.* and for those costs and charges to 27*s.* 4*d.* Therefore it is considered, that the said T. T. do recover against the said T. C. his damages aforesaid to 77*l.* 18*s.* 4*d.* by the inquisition aforesaid in form aforesaid found, and also 15*l.* 11*s.* 8*d.* to the same T. T. at his request, for his costs and charges aforesaid, by the court here of increase adjudged, which said damages in the whole amount to 93*l.* 10*s.* And the said T. C. in mercy, &c. Signed 18th *June* in the 4th year of King *George*; which being read and heard, the said *William Jones* and *William G. say*, that the said T. T. ought not to have his execution against them for the said 100*l.* separately by them as aforesaid acknowledged, by virtue of the recognisance aforesaid, because they say, that no judgment for the said T. T. against the said T. C. after the time of the recognisance aforesaid acknowledged, and before the issuing of the said writs of *scire facias* in the said plea in the recognisance aforesaid mentioned in the said court here was given: And this they are ready to verify: Wherefore they pray judgment if the said T. T. ought to have his execution for the said 100*l.* separately against them, by virtue of the recognisance aforesaid, &c.

Plea, no judgment against the principal before the issuing of the *scire facias*.

Repl. that judgment was given.

And the said T. T. says, that he by any thing by them the said *William J.* and *William G.* above alledged ought not to be precluded from having his execution against them for the said 100*l.* separately acknowledged by virtue of the recognisance aforesaid, because he says, that after the time of the recognisance aforesaid acknowledged, and before the issuing of the said writs of *scire facias*, judgment was given in the said court here for the said T. T. against the said T. C. in the said plea in the recognisance aforesaid mentioned, to wit, in *Trinity* term in the 4th year of the reign of the said Lord the now King, as by the record of that judgment which the Lord the King for certain reasons caused to be brought into the court of the said Lord the King before the King himself, and in the same court of the said Lord the King before the King himself now remaining, appears: And this he is ready to verify by that record; whereupon the said T. T. is order'd by the court of the said Lord the King here to have that record before the justices of the said Lord the King here at *Westminster* from the day of *Easter* in five weeks at his peril: The same day is given to the said *William Jones* and *William G.* there, &c.

J. Comyns.

Demurrer.

And the said *William J.* and *William G.* say, that the plea aforesaid of him the said T. T. above in replying pleaded, and the matter in the same contained, is not sufficient in law to maintain him the said T. T. to have his execution aforesaid for the said 100*l.* against the said *William* and *William*, by virtue of the recognisance aforesaid, to which the said *William* and *William* have no necessity, nor are by the law of the land obliged in any manner, to answer: And this they are ready to verify: Wherefore for want of a sufficient replication in this behalf, the said *William* and *William* as before pray judgment if the said T. T. ought to have his execution aforesaid for the said 100*l.* against them by virtue of the recognisance aforesaid, &c. And for causes of demurrer in law, according to the form of the statute in such case lately made and provided, the said *William* and *William* do set down, and to the court here express these causes: For that in the replication aforesaid the judgment aforesaid is not alledged in certainty, nor is it alledged in what plea the judgment aforesaid was given, or in what time the original writ, on which the judgment aforesaid was given,

The causes.

was obtained and sued out, and for that the replication aforesaid is uncertain, and wants form, in not alledging the record and proceedings of the plea aforesaid, upon which the judgment aforesaid was given.

W. Branibwait.

And the said *T. T.* says, that the plea aforesaid by him the said *T. T.* in manner and Joinder. form aforesaid above in replying pleaded, and the matter in the same contained, are good and sufficient in law to maintain him the said *T. T.* to have his execution aforesaid against the same *William* and *William* for the said 100*l.* separately by them acknowledged, by virtue of the recognisance aforesaid; which said plea, and the matter in the same contained, the said *T. T.* is ready to verify and prove, as the court, &c. And because the said *William Jones* and *William G.* do not answer to that plea, nor hitherto in any wise deny it, the same *T. T.* as before prays execution against the said *William* and *William* for the said 100*l.* separately by them acknowledged: And because the justices here will advise themselves of and upon the premisses before they give judgment thereon, day is given to the parties aforesaid here until to hear their judgment thereon, because the same justices here thereof not yet, &c.

J. Comyns.

The King against The Governor and Company of copper-miners in England.

George by the grace of God, of Great Britain, France and Ireland King, defender of the *Scire facias* to repeal a patent granted by W. & M. to the company of copper-miners in England for non-cessance. faith, &c. To the Sheriff of *Middlesex*, greeting: Whereas the Lord and Lady *William and Mary*, late King and Queen of *England*, &c. by their letters patent made under the great seal of *England*, bearing date at *Westminster* 3d day of *August* in the 3d year of their reign, reciting, that great quantity of copper ore had been found in divers parts of their kingdom of *England*, which for want of skilful workmen to refine and purge the same had been entirely neglected, and not meliorated, to the great damage and detriment of their kingdom of *England* in general, great sums of money being yearly remitted to foreign parts to pay for the said commodity: And whereas the trusty and well beloved subjects of the said late King and Queen, *Joseph Herne*, Knt. *John Briscoe*, *Francis Tysson*, Esq; *Samuel Howard* and *Richard Munford*, of *London*, merchants, had shewn, that they had found out several furnaces, machines, and other ways, means and inventions for the more easy and effectual refining, purging and purifying the same, which before then had not been used or practised within the dominions of the said King and Queen by any other subject of the said King and Queen; and whereas they had most humbly besought the said late King and Queen to incorporate them and divers others in the said letters patent after mentioned, to use and promote the same by a joint stock: They the said late King and Queen being willing to promote all endeavours tending to the publick benefit of their kingdom, and to encourage so laudable an undertaking, of their special grace, certain knowledge and meer motion, by the letters patent aforesaid, for themselves, their heirs and successors, gave, granted, constituted, declared and appointed, that *Joseph Herne*, Knt. *Francis Parry*, Esq; *Francis Tysson*, Esq; *Constantine Vernatti*, Esq; *John Briscoe*, *Samuel Howard*, *Richard Munford*, *Francis Gosfricht*, *Nicholas Cutler*, *Henry Tate*, *John Barkstead* and *Thomas Chambers*, and such others as afterwards should be admitted in the said company, from thenceforth should and might be a body corporate and politick in deed and in name, by the name of The governor and company of copper-miners in *England*; and them by the name of The governor and company of copper-miners in *England*, the same late King and Queen for the purpose aforesaid really and fully for themselves, their heirs and successors, made, erected, ordained, constituted, established, confirmed and declared, by the letters patent aforesaid, to be a body corporate and politick in deed and in name for ever; and that by the said name of The governor and company of copper-miners in *England* they should have perpetual succession, and that they and their successors, by the name of The governor and company of copper-miners in *England*, should have perpetual succession; and that they and their successors, by the name of The governor and company of copper-miners in *England*, might and at all times after should be persons able and capable in law to have, acquire, receive,

receive, possess, enjoy and retain lands, mines, mills, houses, rents, privileges, liberties, franchises and hereditaments of what kind, nature or quality soever they should be, to them and their successors; and also to give, grant, demise, alien, assign and dispose of lands, tenements and hereditaments, and to do and execute all and singular other things by the same which to them belonged to do; and that they and their successors, by the name of The governor and company of copper-miners in *England*, might plead and be impleaded, answer and be answered, defend and be defended, in all courts and places whatsoever, and before any judges, justices or officers of the same late King and Queen, their heirs and successors, in all and singular actions, pleas, suits, complaints, matters and demands of what kind or quality soever, in the same manner and form, and as fully and amply as any other subjects of the same late King and Queen of their kingdom of *England* might or could plead, or be impleaded, answer or be answered, defend or be defended; and that the said governor and company of copper-miners in *England*, and their successors, should have a common seal for the dispatch of the affairs and business of the said company; and that it should and might be lawful for the said governor and company, and their successors, from time to time, at their will and pleasure, to break, change, alter or new make that seal, as they should think fit: And the said late King and Queen farther willed, and by the said letters patent, for themselves and their successors, ordained, that there should be from thenceforth one of the said company to be elected and appointed in such manner and form as in the said letters patent is after expressed, who should be and should be called The governor of the said company, and that from thenceforth there should be a deputy governor, and 10 or more assistants of the said company, to be elected and appointed in such manner and form as is after in the said letters patent directed, mentioned and expressed, for the negotiation and promotion of all things and matters belonging to the said company: And the said late King and Queen did by the said letters patent make and ordain the said *Joseph Herne*, Knt. to be the first and then present governor of the said company, and the said *Francis Parry* to be the first and then present deputy-governor of the said company, and the said *Francis Tysson*, *Constantine Vernatti*, *John Briscoe*, *Samuel Howard*, *Richard Munford*, *Francis Gosfright*, *Nicholas Cutler*, *Henry Tate*, *John Barkstead* and *Thomas Chambers*, to be the first and then present assistants of the said company, the said governor, deputy-governor and assistants, to continue in their respective offices until the 29th day of *September*, which should be in the year of the Lord 1692, and from thence until some other fit persons should be duly elected and sworn into the said offices of governor, deputy-governor and assistants of the said company, if they should so long live: And the said late King and Queen did by the said letters patent, for themselves and their successors, give and grant to the said governor and company, and their successors, power and authority to hold and keep courts in any hall or place within the cities of *London* and *Westminster*, or in any other part of their kingdom of *England* or dominion of *Wales*, and there to assemble and meet together as often as they should think fit, to treat and consult about the affairs of the said company: And the said late King and Queen did by the said letters patent, for themselves and their successors, grant and declare, that the said governor, deputy-governor and assistants, or any seven or more of them, due notice being given by the governor or deputy-governor for the time being to all the assistants, should make and be called The court of the said company, whereof the governor or deputy-governor always to be one; and that it should and might be lawful for the said court from time to time, and as often as they should think fit, to elect and appoint a treasurer or treasurers, secretaries, book-keepers, clerks, beadles, and other sub-officers necessary for the service of the said company, and to constitute, ordain and make such and so many reasonable laws, orders and ordinances, as they, or the major part of them then and there present, should think necessary and convenient for the good order and government of the said company, and those laws, orders and ordinances, or any of them, to alter and annul as the said court should see proper, and to put, impose and inflict reasonable punishments, pains and penalties, by fines and amercements, upon any delinquent or delinquents who should break or violate the said laws, orders or ordinances, so as aforesaid made, and to mitigate the same as they should think convenient; which said fines, penalties and amercements, should and might be levied, sued for, received, retained and recovered, by the said governor and company, and their successors, or by their officers and servants, from time to time for that purpose to be appointed, by distress or action of debt, or by any other legal ways or means, to the use and advantage of the said governor and company, and their successors, without any account to be given for the same to the said late King and Queen, their heirs or successors: All and singular which said laws, constitutions, orders and ordinances, so as aforesaid to be made, the said late King and Queen willed should be duly observed and kept, under the pains and penalties in the same contained, so nevertheless that

the said laws, constitutions, orders and ordinances, fines and amercements, should be reasonable, and not contrary or repugnant to the laws or statutes of their kingdom of *England*: And the said late King and Queen did farther for themselves, their heirs and successors, grant to the said governor and company and their successors, that it should and might be lawful for the said governor, deputy-governor and assistants, and their successors, or the major part of them, the governor or deputy-governor always to be one, as often as they should think proper, to appoint committees, and to summon and call together the officers and members of the said company for the time being, to such courts and committees, as well in *London* as in any other place or places within the kingdom of *England* or dominion of *Wales*, to treat and consult about the affairs of the said company, and to execute their by-laws in any part or parts of the said dominions of the said late King and Queen: And farther the said late King and Queen did by the said letters patent for themselves, their heirs and successors, give and grant to the said governor and company for the time being, whereof the governor or deputy-governor always to be one, from and after the 29th day of *September* then next following, full power and authority to elect and nominate yearly in and upon the 29th day of *September*, or within 14 days after, a governor, deputy-governor, and ten or more assistants out of the said company, (so that the court of assistants should not at one and the same time exceed 18 in number) or at any time or times before the said 29th day of *September* then next ensuing, to augment the number of assistants of the said company, not exceeding 18 as abovesaid, by a majority of votes of all such who had or should have any share or shares in the joint stock in the said letters patent after mentioned, due notice being given by the governor, or deputy-governor, to all the said persons respectively of such election; which said governor, deputy-governor and assistants so nominated and elected, should continue until the 29th day of *September* then next ensuing his or their election or elections, and from thence until some other person or persons should be duly elected and sworn into the said offices of governor, deputy governor and assistants of the said company: And the said late King and Queen by the said letters patent, for themselves, their heirs and successors, declared their will and pleasure, that the governor or deputy-governor for the time being yearly and every year should hold and call a court in and upon the said 29th day of *September* as aforesaid, in order for such election or elections, and should give fourteen days notice in writing of the same to all persons interested in the said company: And also the said late King and Queen by the said letters patent, for themselves, their heirs and successors, did grant and ordain, that every member of the said company might deliver or send his vote in writing, whensoever he should have due and convenient notice of such election or elections, and that all votes in every election of governor, deputy-governor or assistants, should be delivered or sent in writing, and should be read and examined in open court, the governor or deputy-governor, and the major part of the assistants, being present, and that every member should have one vote for every share that he should have in the joint stock, and no more; and that whensoever it should happen that there should be an equality of votes in the election of any officers or members of the said governor, the said governor, or in his absence the deputy-governor, for the time being, should have an additional vote; and that no person should be admitted into any office belonging to the said company until he had first in open court before the governor or deputy-governor taken the oaths appointed by an act of Parliament made in the first year of the said late King and Queen, intituled, *An act for abrogating the oaths of supremacy and allegiance, and appointing other oaths*; and an oath for the due execution of his or their office or offices, and the true and faithful observance of the said laws, constitutions, orders and ordinances of the said company: To which said governor or deputy-governor for the time being, the said late King and Queen by the said letters patent, for themselves and their successors, gave full power and authority so to administer the said oaths: And moreover it was the will and pleasure of the said late King and Queen, that every person who should be after elected into the office of governor, deputy-governor or assistant of the said company, should within fourteen days next after his election refuse to take any or either of the said oaths so ordained and appointed to be administered by the governor, deputy-governor and assistants, should forfeit and pay to the governor and company, and their successors, such fine and amercement as by such laws should be ordained and appointed, and some other person or persons should be elected and sworn into his or their place or places: And the said late King and Queen did likewise for themselves and their successors give and grant to the said governor and company and their successors, or the major part of them in court assembled, full power and authority

to remove and displace any governor, deputy-governor, assistants, or other officer of the said company, for misbehaviour, or other reasonable cause, and to elect another or others in the place or places of the person or persons so removed; and as often as it should happen that the governor or deputy-governor, or any assistant of the said company for the time being, should die, or be permitted by the major part of the governor, deputy-governor and assistants, in open court to surrender his or their office or offices, and that there should be any vacancy of governor, deputy-governor or assistant of the said company, it should be lawful for all such persons who should have any share in the said joint stock, due notice being given them by the governor or deputy-governor of such death or vacancy, to nominate and elect into his or their place or places any other person or persons of the said company to be governor, deputy-governor or assistant, by the ways, methods and limitations in the said letters patent before appointed mentioned and expressed, the said governor, deputy-governor and assistant, to continue in his or their office or offices until the 29th day of *September* then next ensuing his or their election or elections, and until some other person or persons should be elected and sworn into his or their office or offices, he or they first taking in open court the oaths appointed, to be administered by the governor, deputy-governor and assistants, in the form aforesaid: And the said King and Queen, of their farther grace and favour to the said governor and company, did by the said letters patent declare their will and pleasure, that if it should happen that any of the persons in the said letters patent before particularly named, or who should after be a member of the said company, who had promised or agreed, or should promise or agree by writing under his or their hand or hands, to lend or pay any sum or sums of money towards the joint stock of the said company, and within 20 days next after notice to him or them given by the governor or deputy-governor, or their known officer, should not bring in and deliver to the treasurer, by the said company appointed, such sum or sums of money as had been expressed and put in writing and subscribed by the said person or persons, that then and for ever after it should be lawful for the said governor and company, and the major part of them present, whereof the said governor or deputy-governor to be one, at any of their general courts or assemblies to remove and displace from and out of the said corporation and company every such person or persons so refusing to pay his or their subscription-money: And farther it was the will and pleasure of the said late King and Queen, and the said late King and Queen did by the said letters patent ordain, that the said *Joseph Herne*, Knt. in the said letters patent before named to be the then present governor of the said company, should take his corporal oath before the chief justice of the court of the said late King and Queen of the Bench, or the mayor of *London* for the time being, and the said several persons in the said letters patent before named to be the then present deputy-governor and assistants of the said company, should take their corporal oath before the then present governor of the said company in such manner and form as by the said governor and company, or the major part of them, in any publick court by the said company to be held, should be lawfully and reasonably imposed and devised, to whom severally and respectively the said late King and Queen, by the said letters patent, for themselves and their successors, gave full power and authority so to administer the said oaths to the said officers: And the said late King and Queen farther by the said letters patent, for themselves and their successors, willed, authorized and commanded, all and singular their judges, justices of the peace, mayors, sheriffs, bailiffs, constables, headboroughs, and all other officers and ministers of the said late King and Queen, and their successors whatsoever, within the said kingdom of *England* and dominion of *Wales*, to be aiding and assisting to the said governor and company and their successors, and their agents and servants, in all things, according to the will and pleasure of the said late King and Queen in the said letters patent before declared: And the said late King and Queen of their farther special grace, certain knowledge and meer motion, for the carrying on and promotion of the interest of the said company, did by the said letters patent for themselves, their heirs and successors, give and grant to the said governor and company and their successors, that they the said governor and company, and their successors, might and should be from thenceforth persons able and capable in law to have, and the said late King and Queen did by the said letters patent for themselves, their heirs and successors, grant that they should and might have full, free and lawful licence, power and authority to take, have, acquire, receive, enjoy and possess to them and their successors for ever, any manors, lordships, messuages, mills, waters, rivers, rents, services, reversions,

reversions, lands, mines, tenements and other hereditaments whatsoever, so nevertheless that the said manors, lordships, messuages, mills, waters, rivers, rents, services, reversions, lands, mines, tenements and other hereditaments, should not exceed the yearly value of 6000 *l.* besides all charges and reprises, and also goods and chattels of what value, nature or species soever, and also to give, grant, alien, assign and dispose of manors, lordships, messuages, mills, waters, rivers, rents, services, reversions, lands, mines, tenements, hereditaments, goods, chattels, liberties, privileges, franchises and jurisdictions, and also to do and execute all other lawful acts and things by the said name: And farther the said late King and Queen did by the said letters patent for themselves, their heirs and successors, give and grant to all and singular the subject and subjects of the said late King and Queen, and their successors whatsoever, special licence, power and authority, to give, grant, sell and alien, to the said governor and company, and their successors, any manors, lordships, messuages, mills, waters, rivers, rents, services, reversions, lands, mines, tenements and hereditaments, whatsoever, so nevertheless that the same should not exceed the clear yearly value of 6000 *l.* besides all charges and reprises whatever, and also goods and chattels of what nature and value soever: And the said late King and Queen did by the said letters patent for themselves, their heirs and successors, give and grant to the said governor and company, and their successors, full power and authority to make and raise that joint stock of any value whatever, and to order, negotiate and promote that joint stock from time to time for the purposes aforesaid, and to receive the benefit and advantage of the same, to the use of them the said governor and company and their successors, according to such part and share as they or any of them should have in the same, and to augment and increase, or reduce and diminish that joint stock from time to time, as they the said governor and company, and their successors, should judge most convenient and expedient: And lastly, the said late King and Queen by the said letters patent, for themselves, their heirs and successors, granted to the said governor and company and their successors, that the said letters patent, or the enrolment of the same, should and might be in and by all things good, firm, valid and effectual in law, according to the true intent and meaning of the same, and should be accepted, construed and adjudged, in the most favourable and beneficial sense for the best advantage of the said governor and company and their successors, as well in all courts of record as elsewhere, and by all and singular the officers and ministers of the said late King and Queen, their heirs and successors whatsoever, in the said kingdom of *England* and dominion of *Wales*, any defect or contrariety contained in the said letters patent, or any thing, cause or matter whatsoever, to the contrary in any wise notwithstanding, as by the said letters patent enrolled before us in Chancery is more fully manifest and appears: And whereas the said late King and Queen by their other letters patent made under the great seal of *England*, bearing date at *Westminster* the 22d day of *September* in the 3d year of their reign, reciting, that whereas the said late King and Queen by the said letters patent above-mentioned had graciously incorporated several their subjects mentioned in the same, for the refining, purifying and purging of copper ore within their kingdom of *England*, by the name of The governor and company of copper-miners in *England*, granting them sundry powers, privileges and authorities, for the better regulation and good government of the said company, as by the said letters patent is more fully manifest and appears: And reciting, that whereas the said governor and company had informed the said late King and Queen, that there were great quantities of copper ore in several parts of their kingdom of *Ireland*, which for want of skilful workmen to refine and purify the same were totally neglected, and not meliorated; wherefore they had most humbly implored the said late King and Queen to enlarge their powers to extend as well to *Ireland* aforesaid, as to their kingdom of *England*: The said late King and Queen being therefore willing to give due encouragement to the said governor and company in carrying on and promoting the said art and mystery in the said kingdom of *Ireland*, which the said late King and Queen were satisfied might tend to the publick benefit and advantage of their subjects, of their special grace, certain knowledge and meer motion, did will, ordain, grant, constitute, declare and appoint, by the said letters patent, for themselves, their heirs and successors, that the said governor and company and their successors, their agents, servants and assigns, from time to time, and at all times from thenceforth, might and should use, exercise and practice, as well the said art and mystery of refining, purifying and purging of copper ore, as all and singular the powers, licences, liberties, privileges and authorities in and by the above recited letters patent granted, in any part or place whatsoever within the kingdom of *Ireland*, as fully and amply to all intents and purposes, as if they the said governor and company had been incorporated within the said kingdom of *Ireland*, and as fully as the said governor and company either in their corporate capacity, or by

by their officers, agents and servants, or by any other lawful ways or means; might or could use or exercise the same within any part of their kingdom of *England*, and as if the same powers, authorities, liberties and privileges, had been again recited and mentioned in the place of the several provisions, reservations and restrictions in their said letters patent contained: And the said late King and Queen did by the said letters patent, for themselves, their heirs and successors, grant to the said governor and company and their successors, being assembled in a court of assistants, full power and authority from time to time thenceforth, as they should see expedient, to appoint committees, and one or more secretary, accountant, controller, auditor, receiver or other officers, as they should think proper and necessary for the management and promotion of the joint stock of the said company, and the said art and mystery of refining, purifying and purging of copper ore within their said kingdom of *Ireland*, and them and every of them to displace and remove at the will and discretion of the said governor and company and their successors, in the court of assistants assembled as aforesaid: And the said late King and Queen by the said letters patent, for themselves, their heirs and successors, did strictly charge, require and command, all and singular the mayors, bailiffs, justices, headboroughs, sheriffs, magistrates, commanders, constables and other the officers, ministers and subjects of the said late King and Queen, and their heirs and successors whatsoever, within their said kingdom of *Ireland*, that they and every of them in their several places and stations, and according to their best and utmost endeavours, should be aiding and assisting to the said governor and company and their successors, and their agents, officers and servants, in and concerning the use, exercise and execution of the several arts and mysteries aforesaid, and of the several powers, privileges and authorities in the said letters patent before granted, according to the true intent and meaning of their said letters patent, as they and every of them regarded the good will of the said late King and Queen, and should answer for the contrary at their utmost peril: And lastly, it was the will and pleasure of the said late King and Queen, and the said late King and Queen by the said letters patent, for themselves and their successors, granted to the said governor and company and their successors, that the said letters patent, or the inrolment of the same, should be in and by all things good and firm, valid and effectual in law, according to the true intent and meaning of the same, and should be construed and adjudged in the most favourable and beneficial sense for the best advantage of the said governor and company and their successors, in all and singular the courts and places, as well within their said kingdom of *Ireland* as within their kingdom of *England*, notwithstanding the non-recital or not full recital of the said letters patent above-mentioned, or of any clauses, powers, authorities or articles in the same contained, and notwithstanding the not mentioning or not describing of the several ways, methods or means, whereby the said several arts or mysteries should be used or exercised, or of any machine, instrument or material thereto belonging or appertaining, or of the several persons whom the said late King and Queen by the said letters patent above specified had as aforesaid incorporated, and notwithstanding any other non-recital, misrecital, uncertainty, ambiguity, defect or contrariety in the said letters patent, or any other thing, cause or matter whatsoever, to the contrary in any wise notwithstanding; provided always, that the said letters patent be inrolled within the space of 12 months next after the date of the same in the court of Chancery of the said late King and Queen in their kingdom of *Ireland*, as by the said letters patent in our Chancery inrolled more fully is manifest and appears: And whereas the Lady *Anne*, late Queen of *Great Britain*, &c. by her letters patent, bearing date at *Westminster* the 2d day of *February* in the 9th year of her reign, reciting, that whereas the said late King and Queen by the said letters patent made under their great seal of *England*, bearing date at *Westminster* the third day of *August* in the third year of their reign, (reciting as in the same were recited) had given, granted, constituted, declared and appointed, that *Joseph Herne*, *Kt. Francis Parrey*, Esq; *Francis Tysson*, Esq; *Constantine Vernatti*, Esq; *John Briscoe*, *Samuel Howard*, *Richard Munford*, *Francis Gosfright*, *Nicholas Cutler*, *Henry Tate*, *John Barkstead* and *Thomas Chambers*, and such others as should be admitted into the said company in the said letters patent after mentioned, should from thenceforth be a body politick in fact and in name, by the name of The governor and company of copper-miners in *England*, and them by the name of The governor and company of copper-miners in *England*, the said late King and Queen, by their letters patent for the purposes therein mentioned, had made, erected, ordained, constituted, established, confirmed and declared, to be a real body corporate and politick in fact and in name for ever: And farther the said late King and Queen by their said letters patent had given and granted to the said governor and company for the time being, whereof the governor or deputy-governor for the time being to be always one, from and after the 29th day of *September* then next ensuing, full

power and authority to nominate and elect yearly, on the 29th day of *September*, or within 14 days after, a governor, deputy-governor, and ten or more assistants out of the said company, so that the court of assistants should not exceed the number of 18 at one and the same time, or at any time or times before the said 29th day of *September* then next, to increase the number of assistants of the said company, not exceeding the number of 18 as aforesaid, by the majority of votes of all such persons who had or should have any share or shares in the joint stock in the said letters patent after mentioned, due notice being given by the governor or deputy-governor to all the said persons respectively of such election; which said governor, deputy-governor and assistants so nominated and elected, should continue until the 29th day of *September* next following his or their election or elections, and from thence until some other person or persons should be duly elected and sworn into the office of governor, deputy-governor and assistant of the said company, and had declared their will and pleasure to be, that the governor or deputy-governor for the time being should yearly and every year call and hold a court as aforesaid in and upon the said 29th day of *September*, in order for such election or elections, and should give 14 days notice in writing of the same to all persons interested in the said company, as in and by the said recited charter of incorporation more fully appears: And whereas the said governor and company had most humbly represented to the said Lady *Anne*, late Queen, &c. that the giving notice in writing of such election or elections to all persons interested in the said company, according to the letter of the said charter, was impracticable, and had most humbly besought the said late Queen to grant and confirm to the said company their former rights and privileges, and that *John Moor*, Gent. who then in fact was or acted for and as the then present governor, and that *Thomas Chambers*, Gent. who then was or in fact acted for and as the then present deputy-governor, *Roger Alley*, *William Coatesworth*, *Richard Green*, *John Heatbcote*, *William Heatbcote*, *Samuel Haywood*, *Orlando Humfreys*, *Henry Lyell*, *Balthar Lyell*, *Gabriel Smith*, *Robert Walker* and *Josiah Wordsworth*, Gent. who then were or in fact acted as the then present assistants of the said company, altho' regular and exact notice, according to the said charter, had not been given of the time of their election, might be confirmed; and also that in lieu of notice in writing of the time of holding the said court by the said charter appointed, publick notice in the *London Gazette* might be sufficient, and also that the day of election of the said governor, deputy-governor and assistants, by the said charter appointed yearly, might be changed from the said 29th day of *September* to the 25th day of *March*, as in the letters patent of the said Lady the late Queen is after mentioned: The said Lady *Anne* the late Queen being willing and desirous to remedy the said inconvenience, and grant the request of the said governor and company, of her special grace, certain knowledge and meer motion, did by her said letters patent for herself, her heirs and successors, give, grant and confirm to the said corporation or body politick their said name of The governor and company of copperminers in *England*, and all and singular their rights, privileges, liberties, franchises, immunities and hereditaments whatsoever, to the said governor and company and their successors, in and by the said recited charter of incorporation, or otherwise, by the said late King and Queen given, granted, made, erected, ordained, constituted, established, confirmed, declared or appointed, and by the said letters patent of the said Lady *Anne* the late Queen not after changed, or which the said governor and company, or their successors, might or could, or of right ought to have, hold, claim, use, occupy, possess, receive, retain or enjoy, by force, virtue or pretence of the said recited charter of incorporation, or any article, clause, matter or thing in the same contained, and by the said letters patent of the said Lady the late Queen not after changed: And the said lady the late Queen did by her said letters patent for herself, her heirs and successors, make, ordain and confirm, the said *John Moor* to be the then present governor of the said company, and the said *Thomas Chambers* to be the then present deputy-governor of the said company, and the said *Roger Alley*, *William Coatesworth*, *Richard Green*, *John Heatbcote*, *William Heatbcote*, *Samuel Haywood*, *Orlando Humfreys*, *Henry Lyell*, *Balthar Lyell*, *Gabriel Smith*, *Robert Walker* and *Josiah Wordsworth*, to be the then present assistants of the said company, the said governor, deputy-governor and assistants, by the said letters patent of the said late Queen appointed and confirmed, to be and continue in their respective offices until the 25th day of *March* which should be in the year of the Lord 1711, and from thence until some other fit persons should be duly elected and sworn into the said offices of governor, deputy-governor and assistants of the said company, if they should respectively so

long live: And to the intent that the time of election of the said governor, deputy-governor and assistants of the said company, might from thence for the future be changed, according to the humble request of the said petitioners, the said late Queen by her said letters patent for herself, her heirs and successors, declared, that she gave and granted to the said governor and company, that the said governor and company for the time being, whereof the governor or deputy-governor for the time being always to be one, upon the 25th day of *March* in the year of the Lord 1711, or within 14 days next after, and so afterwards yearly and every year, on the 25th day of *March*, or within 14 days after, in such manner and form as by the said recited letters patent is for that purpose directed and appointed, should have full power and authority to nominate and elect a governor, deputy-governor, and ten or more assistants out of the said company, so that the said assistants should not at any time exceed 18 in number, or at any time or times before the said 25th day of *March*, which should be in the year of the Lord 1711, to augment the number of assistants not exceeding 18 in number as aforesaid, by a majority of votes of all such as had or then should have any share or shares in the joint stock of the said company, notice of such election being given in the *London Gazette* at least by the space of 14 days before the day of such election, as by other companies is generally used; which said governor, deputy-governor and assistants so nominated and elected, should and might continue until the 25th day of *March* from thence next ensuing such his or their election, and from thence until some other fit person or persons should be duly elected and sworn into the said offices of governor, deputy-governor and assistants of the said company: And the said late Queen by the said letters patent did for herself, her heirs and successors, grant, declare and ordain, that the governor or deputy-governor for the time being on the 25th day of *March*, which should be in the year of the Lord 1711, or within 14 days after, and so yearly and every year, on the 25th day of *March*, or within 14 days after, should call and hold a court as aforesaid, to be held in such place as in the said recited letters patent is for that purpose mentioned, and that in lieu of notice in writing of the same in and by the said recited charter appointed to be given to all persons interested in the said company, publick notice in the *London Gazette*, inserted by the space of 14 days or more, before every such court held or election made of the time and place of such court to be held or election to be made, as by other companies is generally used should be, and by the said letters patent was declared should be esteemed to be sufficient notice to all persons interested in the said company; any thing in the said letters patent, or in the said recited charter of incorporation to the contrary thereof in any wise notwithstanding, as by the said letters patent inrolled in our Chancery is more fully manifest and appears: And whereas we are given to understand that the said governor and company of copper-miners in *England* for the space of nine years now last past have not refined, purified and purged any copper, according to the tenor of the said several letters patent, but for all that time have wholly neglected and left off refining, purifying and purging any copper; and that the said governor and company of copper-miners in *England* have not for the space of nine years held any courts for the election of governor, deputy-governor and assistants of the said company, according to the tenor of the said several letters patent, nor for all the said time have elected a governor, deputy-governor and assistants of the said company, according to the tenor of the said several letters patent, but for all that time have intirely neglected to hold such courts, and to elect a governor, deputy-governor and assistants of the said company; and that the said governor and company of copper-miners in *England*, by colour of the said several letters patent, after the 24th day of *June* last past, to wit, on the second day of *August* last past, at the parish of *St. Martin in the fields* in your county, a certain transferrable stock to the value of 500000*l.* have unlawfully collected and raised, and into many and sundry parts and shares have divided and set out, and from thence from time to time at sundry days and times between the said 2d day of *August* and the day of the issuing of this writ, at the said parish of *St. Martin in the fields* in your county, the same stock, and the said several parts thereof, have transferred and assigned, and transfers and assignments of the several parts of that stock have unlawfully procured and permitted, contrary to the form and effect of the several letters patent aforesaid, when by the several letters patent aforesaid such transferrable stock was not intended or designed to be collected and raised, and transferred or assigned, against the form of the statute in such case lately made and provided;

by reason of which said premisses the said several letters patent aforesaid to the said governor and company granted are and ought to be void, and of no force or effect in law: And we being willing that what is just should be done in the premisses, command you, that by good and lawful men of your bailiwick you give notice to the said governor and company of copper-miners in *England*, that they be before us in our Chancery in 15 days of *St. Martin* wheresoever it shall then be, to shew if they have or can say any thing for themselves, why the said several letters patent as aforesaid to them in form aforesaid granted, and the inolments of the same for the reasons aforesaid, ought not to be cancelled, vacated, disallowed, and those several letters patent restored into our said Chancery, there to be cancelled, and farther to do and receive those things which our said Chancery shall consider in this behalf, and have there the names of those by whom you shall give them notice, and this writ. Witnesses *William* archbishop of *Canterbury*, and the other keepers and justices of our kingdom, at *Westminster* 24th day of *October* in the 7th year of our reign.

Jekyl. Bulstrode.

The King against Yale, Esq;

Mich. 6 Geo.

Midd. to wit. **B**E it remember'd, that the writ of the Lord the now King under the *Scire facias* seal of this Exchequer, by the consideration of the barons here, hath issued in these words, to wit, *George* by the grace of God, of *Great Britain, France and Ireland* King, defender of the faith, &c. To the sheriff of *Middlesex*, greeting: Whereas *Elibu Yale* of the parish of *St. Andrew Holbourn* in the county of *Middlesex*, Esq; and *Matthew Kirwood*, Knt. citizen and goldsmith of *London*, by their writing obligatory made at *Westminster* in the county of *Middlesex*, dated the 25th day of *April* in the 4th year of our reign, jointly and severally are bound to us in 40000*l.* of lawful money of *Great Britain*, to be paid at a certain day past; and they have not paid, nor caused to be paid, nor hath either of them paid us the same, as it is said: And we being willing to be satisfied, the said 40000*l.* now due to us, with all the speed we can (as is just) command you, that you do not omit on account of any liberty, but that you enter into it, and by good and lawful men of your bailiwick you give notice to the said *Elibu Yale*, that he be before the barons of our Exchequer at *Westminster* on the 23d day of *October* next coming, to shew and alledge, if he hath or can say any thing for himself, why we ought not to have execution against him for the said 40000*l.* and have there then the names of those by whom ye shall give him notice, and this writ. Witness *T. Bury*, Knt. at *Westminster* 17th day of *June* in the 5th year of our reign. By the writing obligatory aforesaid, and by the barons. *Marsham*. On which day *John Eyles*, Bart and *John Tash*, Esq; sheriff of *Middlesex* aforesaid, returns here the writ aforesaid indorsed thus, to wit, the within named *Elibu Yale* hath nothing in my bailiwick where or by which I can give him notice, nor is he found in the same. The return.

The answer of { *John Eyles*, Bart. }
and
{ *John Tash*, Esq; } sheriff.

And now here on the said 23d day of *October* in this term comes here the said *Elibu* Appearance: *Yale* in the writ of *scire facias* aforesaid mentioned by *James Pearse* his attorney, and prays oyer of the writ of *scire facias* aforesaid, and of the return of the same; and to him they are read; he prays likewise oyer of the writing obligatory in the writ of *scire facias* aforesaid Oyer: mentioned, and of the condition of the same writing obligatory; and to him they are likewise read in these words, to wit, Know all men by these presents, that we *Elibu Yale* of the parish of *St. Andrew Holbourn* in the county of *Middlesex*, Esq; and *Matthew Kirwood*, Knt. citizen and goldsmith of *London*, are held and firmly bound to our most serene Lord *George* by the grace of God of *Great Britain, France and Ireland* King, defender of the faith, &c. in 40000*l.* of good and lawful money of *Great Britain*, to be paid to the same Lord the King, his heirs and successors; to which said payment well and truly to be made we bind ourselves, and each of us by himself, for the whole and in the whole, our and each of our heirs, executors and administrators, firmly by these presents, dated the twenty-fifth day of *April* in the fourth year of the reign of the said Lord the King, and in the year of the Lord 1718. The condition of this obligation

gation is such, That whereas *Edward Pauncefort*, Esq; receiver general and acting cashier to the commissioners of excise, hath agreed to employ the above-bound *Sir Matthew Kirwood* for receiving from him the said *Edward Pauncefort*, his clerks or agents, all such sum and sums of money, and bill and bills of exchange, notes, bonds and other papers, as the said *Edward Pauncefort* shall from time to time think fit to pay or deliver to the said *Sir Matthew Kirwood*, or his order, for or on account of his Majesty's revenue of excise on beer and ale and other liquors; and also the duties on malt, hops, sope, paper, silk, callicoes, &c. or any of them, or relating to any other revenues or payments belonging to his Majesty, or the said *Edward Pauncefort* on his own private account: If therefore he the said *Sir Matthew Kirwood* do and shall from time to time, and at all times hereafter, when he shall be thereunto required, due and true account make with the said *Edward Pauncefort*, his agents, executors or assigns, of and concerning all such sum and sums of money, bill and bills of exchange, notes, bonds and other papers, as he the said *Sir Matthew Kirwood*, or any other person or persons by his order, privity or consent, shall receive, or that shall come to his or their or any of their hands, by virtue of the said trust reposed in him; and shall from time to time, and at all times hereafter, when he shall be thereunto required, but more particularly every *Tuesday* in every week, except the same be a holyday, if required, well and truly satisfy, pay and deliver, or cause to be paid, satisfied and delivered in bank silver or gold, unto the said *Edward Pauncefort*, his agent, executors or assigns, all such sum or sums of money as he the said *Sir Matthew Kirwood*, or any other person or persons by his order, privity or consent, at any time shall have received or collected, or shall have in his or their hands or custody, by virtue of any bill or bills of exchange, notes, bonds and other papers in any wise relating to the said revenues for the time being, or on any account belonging to his Majesty, or unto the said *Edward Pauncefort*, on his own particular account: And if the said *Sir Matthew Kirwood* shall from time to time, when he shall be thereunto required by the said *Edward Pauncefort*, his executors, administrators or assigns, deliver unto the said *Edward Pauncefort*, his agent, executors, administrators or assigns, all and singular bill and bills of exchange, notes, bonds, book and books, papers, and all other things whatsoever relating to the said revenues, or any of them, or to the said *Edward Pauncefort*, according to the true intent and meaning of these presents, then the above obligation to be void and of none effect, or else to be and remain in full force and virtue: Which being read and heard, and by him understood, he complains that he is by colour of the premisses greatly aggrieved and disturbed; and this unjustly, because by protesting that the writ of *scire facias* aforesaid, and the return of the same, and the writing obligatory aforesaid, and the matter in the same contained, are not sufficient in law to charge him the said *Elibu Yale* with the said 40000*l.* in the writing obligatory in the writ of *scire facias* aforesaid mentioned, or with any part thereof, to which he hath no necessity, nor is by the law of the land obliged, to answer; for plea nevertheless the said *Elibu Yale* says, that the said Lord the King ought not to have execution against him for the said 40000*l.* or any part thereof, because he says, that the said *Edward Pauncefort*, Esq; in the condition of the same writing obligatory named, on the said 25th day of *April* in the 4th year of the reign of the said Lord the King aforesaid, at *Westminster* in the county of *Middlesex*, employed the said *Matthew Kirwood*, Knt. for receiving from him the said *Edward Pauncefort*, his clerks or agents, all such sum and sums of money, and bill and bills of exchange, notes, bonds and other papers, as the said *Edward Pauncefort* should from time to time think fit to pay or deliver to the said *Matthew Kirwood*, or his order, for or on account of his Majesty's revenue of excise on beer and ale and other liquors, and also the duties on malt, hops, sope, silk, callicoe, &c. or any of them, or relating to any other revenues or payments belonging to his Majesty, or the said *Edward Pauncefort*, on his own private account; and that he the said *Sir Matthew Kirwood* continued in the said employment from the said 25th day of *April* in the 4th year of the reign of the said Lord the King aforesaid until the first day of *September* in the fifth year of the reign of the said Lord the now King, and no longer, to wit, at *Westminster* aforesaid: And the same *Elibu* farther says, that the said *Sir Matthew Kirwood* from time to time during his continuance in his said employment, when he was thereto required, due and true account made with the said *Edward Pauncefort*, his agents or

Conditions
performed
specially.

or assigns, of and concerning all such sum and sums of money, bill and bills of exchange, notes, bonds and other papers, as he the said Sir *Matthew Kirwood*, or any other person or persons by his order, privity or consent, received or came to his, their or any of their hands, by virtue of the said trust reposed in him, and from time to time, and at all times during his continuance in his said employment, when he was thereto required, and more particularly every *Tuesday* in every week, not being a holyday, when he was thereto required, well and truly paid, satisfied and delivered, or caused to be paid, satisfied and delivered, in bank silver or gold, unto the said *Edward Pauncefort*, his agents, executors or assigns, all such sum and sums of money, as he the said Sir *Matthew Kirwood*, or any other person or persons by his order, privity or consent, at any time received or collected, or had in his or their hands or custody, by virtue of any bill or bills of exchange, notes, bonds or other papers, in any wise relating to the said revenues, for the time being, or on any his particular account; and that the said Sir *Matthew Kirwood*, from time to time during his continuance in his said employment, when he was thereto required by the said *Edward Pauncefort*, or his assigns, delivered unto the said *Edward Pauncefort*, his agents or assigns, all and singular bill and bills of exchange, notes, bonds, book and books, papers, and all other things whatsoever relating to the said revenues, or any of them, or to the said *Edward Pauncefort*, according to the true intent and meaning of the said writing obligatory, to wit, at *Westminster* in the county aforesaid: And this the said *Elibu Yale* is ready to verify and prove, as the court, &c. Wherefore he prays judgment, and that the said *Elibu Yale* from the said sum of 40000*l.* in the writ of *scire facias* aforesaid mentioned may be acquitted and discharged, and that the writing obligatory aforesaid may be cancelled, and to the same *Elibu Yale* delivered, and that he the said *Elibu Yale* as to the premisses from this court may be dismissed.

And the honourable *Nicholas Lechmere*, Esq; the attorney general of the said Lord the Breach in now King, who for the said Lord the King prosecutes, for the said Lord the King says, non-payment that by any thing by the said *Elibu* above in pleading alledged, the said Lord the King ought not to be precluded from having his execution against the said *Elibu* for the of 13790*l.* 8*s.* 3 ¹/₄*d.* the said 40000*l.* in the writ aforesaid mentioned, because he says, that after the making of the writing obligatory aforesaid, and during the said continuance of the said Sir *Matthew Kirwood* in the business and employment aforesaid in the plea aforesaid above-mentioned, to wit, 30th day of *August* in the 5th year of the reign of the said Lord the King, and by virtue of the trust in the condition aforesaid mentioned, he the said Sir *M. Kirwood* in the writing obligatory aforesaid above named, or some other person or persons by his order, privity or consent, hath or have received and had in their hands and custody from the said *Edward Pauncefort*, the same *Edward* there for all the time aforesaid being receiver general and acting cashire to the commissioners of excise aforesaid, or from his clerks or agents, money and several bills of exchange, notes and other papers relating to the said revenues, or some of them, in the condition aforesaid mentioned, belonging to his said Majesty; and that by virtue thereof the said Sir *M. Kirwood* then received and had several sums of money, amounting in the whole to the sum of 13790*l.* 8*s.* 3 ¹/₄*d.* of lawful money of Great Britain, to wit, at *Westminster* in the county of *Middlesex* aforesaid; which said sums of money he the said Sir *Matthew* hath not well and truly satisfied, paid and delivered, or caused to be satisfied, paid and delivered, in bank gold or silver, unto the said *Edward Pauncefort*, his agents or assigns, according to the tenor of the condition aforesaid; but they are yet unpaid, altho' the said Sir *Matthew Kirwood* was then and there required by the said *Edward Pauncefort*, but he hath altogether neglected to do it, and yet refuses, against the form and effect of the condition aforesaid: And this the said attorney general for the said Lord the King is ready to verify, as the court, &c. Wherefore he prays judgment, and that the said Lord the now King may have his execution against the said *Elibu Yale* for the said 40000*l.* in the writ of *scire facias* aforesaid mentioned, &c.

Edw. Noribey.

And the said *E. Yale* says, that by any thing by the honourable *N. Lechmere*, attorney That the defendant paid general of the said Lord the now King, above in replying alledged, execution for the said it to plaintiff's 40000*l.* against him ought not to be had, because he says, that Sir *Matthew Kirwood* above order. named hath paid the said sum of 13790*l.* 8*s.* 3 ¹/₄*d.* to one *Conrade de Gels*, by the Praet. Reg. order 461.

order of the said *Edward Pauncefort*, for the use of the said *Edward Pauncefort*, according to the form and effect of the said condition: And this the said *Elibu* is ready to verify, as the court, &c. Wherefore he prays judgment, &c.

That he hath
not paid it.

And the said attorney general of the said Lord the King for the same Lord the King says, that the said Sir *Matthew Kirwood* hath not paid the said sum of 13790 *l.* 8 *s.* 3 *d.* to the said *Conrade de Gols*, in manner and form as the said *Elibu* above in rejoining hath alledged: And this the said attorney general for the said Lord the King prays may be inquired of by the country.

Demurrer.

And the said *Elibu Yale* says, that the plea aforesaid by the said attorney general of the said Lord the King above in surrejoining pleaded, and the matter in the same contained, is not sufficient in law to intitle the said Lord the King to have his execution against him the said *Elibu* for the said 40000 *l.* and that he to that plea in manner and form aforesaid pleaded hath no necessity, nor is by the law of the land obliged in any wise, to answer: And this he is ready to verify: Wherefore for want of a sufficient plea in this behalf, the said *Elibu* prays judgment, and that the said Lord the King may be precluded from having his execution against him the said *Elibu*.

Joinder.

And the said attorney general of the said Lord the King says, that the matter aforesaid by him for the said Lord the King by his surrejoinder aforesaid above alledged is sufficient in law to have execution for the said Lord the King for the said 40000 *l.* in the writ aforesaid mentioned; which said matter he for the said Lord the King is ready to verify, and which said matter the said *Elibu Yale* doth not deny, nor thereto in any wise answer, but doth wholly refuse to admit that averment: Wherefore he prays judgment, and that the said Lord the King may have execution against the said *Elibu Yale* for the said

Continuance.

40000 *l.* in the writ aforesaid mentioned therefore to judgment: And because the barons here will advise themselves of and upon the premises before they give their judgment thereon, day is given here to the said *Elibu Yale* in the same state as now until on the Octave of St. *Hillary*, because the same barons thereof not yet, &c. On which day the said *Elibu Yale* comes here as before, and for the reason aforesaid hath day farther until from the day of *Easter* in 15 days: On which day the said *Elibu Yale* comes here as before, and for the reason aforesaid hath day farther until from the day of St. *Michael* in three weeks: On which day the said *Elibu Yale* comes here as before, and for the reason aforesaid hath day farther until *Wednesday* the 23d day of *November* in the same *Michaelmas* term: On which day the said *Elibu Yale* comes here as before; whereupon the premises being seen by the barons here, and mature deliberation being thereon had between

Judgment for
the King.

them, it is considered by the same barons, that the said Lord the King may have execution against the said *Elibu Yale* for the said 40000 *l.* in the writ aforesaid mentioned, by reason of the premises: Afterwards, to wit, on the 21st day of *December* in the year aforesaid, the Lord the King sent here his writ close under the great seal of *Great Britain*, directed to the treasurer and barons of his Exchequer, in these words, to wit, *George* by the grace of God, of *Great Britain, France and Ireland* King, defender of the faith, &c. To his treasurer and barons of his Exchequer, greeting: Whereas in the record and proceedings, and also in the rendition of the judgment against one *Elibu Yale*, Esq; upon a certain writ of *scire facias* out of our court of Exchequer, on a certain writing obligatory, in which the said *Elibu Yale*, together with Sir *Matthew Kirwood*, is bound to us in the sum of 40000 *l.* against him issued at our suit before you the said barons in our said court of our Exchequer, as it is said, a manifest error hath happened, to the great damage of him the said *Elibu*, as by his complaint we have understood: And whereas in a statute

31 E. 3. c. 12.

made in a Parliament of the Lord *Edward* the Third, late King of *England*, our predecessor, held at *Westminster* in the 31st year of his reign, among other things it is accorded and established, that in all cases touching the King or other persons, where a man complaineth of error made in process in the Exchequer, the chancellor and treasurer should cause to come before them in any chamber of counsel nigh the Exchequer, the record of the process out of the Exchequer, taking to them the justices and other sage persons, such as to them seemeth to be taken, and should also cause to be called before them, the barons of the Exchequer, to hear their informations and the causes of their judgments, and thereupon should duly examine the business, and if any error be found, they should correct and amend the rolls, and after send them into the Exchequer, to make thereof execution as pertaineth, as in the same statute more fully is contained: We therefore being willing that the error, if any hath been, should be duly corrected, according to the form of the statute aforesaid, and full and speedy justice done to the parties aforesaid in this behalf, command you, that if judgment thereon be given, then the record and proceedings aforesaid,

aforesaid, with all things touching them, before the Lord Chancellor and you, you the said treasurer in the chamber of counsel nigh the Exchequer aforesaid, called the *Counsel chamber*, on *Tuesday*, to wit, the 31st day of *January* next ensuing you cause to come, that the said chancellor and you the said treasurer, the record and proceedings aforesaid being seen and examined; and your informations being heard, you the said barons farther cause to be done in this behalf, with the advice of the justices and other such sage persons, what of right, and according to the form of the statute aforesaid shall be to be done. Witness Ourselves at *Westminster* the 21st day of *December* in the 7th year of our reign.

And the said *Elibu Yale* comes here in his proper person and says, that in the record and proceedings aforesaid, and also in the rendition of the judgment aforesaid, there is ^{General error} manifest error, in this, to wit, that the judgment aforesaid is given for the said Lord the King against him the said *Elibu Yale*, when the judgment aforesaid ought to have been given for the same *Elibu Yale* against the said Lord the King; therefore in that it is manifestly erroneous.

Con. *Phipps*.
Tbo. *Boole*.

And *Robert Raymond*, Knt. attorney general of the said Lord the King, says, that in the record and proceedings aforesaid, and in the rendition of the judgment aforesaid, there is no error; and he prays for the said Lord the King, that the court of the said Lord the King here may proceed to the examination, as well of the record and proceedings aforesaid, as of the matter aforesaid above for error assigned, and that the said judgment may be in all things affirmed.

Rob. *Raymond*.
P. *Torke*.

The points principally insisted on in the several arguments of this cause, on the behalf of the defendant, did not regard the justice of the demand, but were matters of form, viz.

1st *Objection*. That this was not such a bond to the King, as that a *scire facias* could lie thereon, it not being taken pursuant to the statute 33 *H. 8. cap. 29.* which requires that the penalty in the obligation should be made payable to the King, his heirs or executors; whereas in this case the penalty is made payable to the King, his heirs or successors; that the word (*executor*) being omitted, the act was not pursued; and without the aid of that act this particular method of proceeding by *scire facias* could not be maintained upon a bond entred in to the King.

Answer. To this objection it was answered and resolved by the judges in both courts, That those words in the statute 33 *H. 8.* were only directory, and it was not necessary to insert in the bond all the words mentioned in the act; that the principal intention of the law-makers was that bonds taken to the King, which were to have so great a privilege beyond other bonds, should be for some matter concerning the King's interest, and should be made to him in his regal name, and not in the name of common persons to his use, which was the mischief design'd to be prevented by the statute, and that this had been formerly so adjudged.

2^d *Obj.* That this bond was not within the said statute, because it was not taken by a proper authority. Mr. *Pauncefort*, to whom by the condition the payments were to be made from time to time, not appearing to be an officer of the crown, but of the commissioners of excise, and consequently having no power to take a bond in the King's name.

Ans. In answer to this objection it was insisted, and so held by the court, That it neither did nor was necessary to appear by what authority the bond was taken. That the only requisites the statute had made necessary were, that the bond should be made to the King by his regal name, and for a cause or causes touching or concerning the King's Majesty; that those sufficiently appeared in the present case, the monies secured by this bond being mentioned in the condition to arise from the revenues of excise. But it was likewise insisted, that Mr. *Pauncefort* appeared upon this bond to be an officer of the crown sufficient for this purpose; for he is described in the condition to be receiver general and acting cashire to the commissioners

missioners of excise; that the commissioners of excise are known officers of the crown, and a subordinate officer under them being appointed by an authority derived from the crown may properly enough be said to be an officer of the King; and if this objection should prevail, it would avoid most of the bonds taken upon account of the revenue.

3d Obj. The next exception was to the condition, That it did not only require Sir *Matthew Kirwood* to account for and pay all sums of money and bills that should be deposited in his hands on account of his Majesty's revenue, but also such as belonged to Mr. *Pauncefort* himself, and that a bond could not be taken in the King's name for Mr. *Pauncefort*'s own money within the statute above-mentioned.

Ans. The answer to this objection was, That tho' where the condition of a bond is intire and the whole is unlawful, it is in most cases void: Yet it is a known allowed distinction, that where the condition consists of several different parts, and some of them are lawful, or such for which the bond might be taken, and the others not, it is good for so much as is lawful, and void for the rest. That therefore this bond was good for so much as concerned the King's revenue, and the only breach assigned in this cause is for non-payment of money received by Sir *Matthew Kirwood* on account of that revenue.

4th Obj. The last objection was to the form of the replication, That the breach of the condition therein assigned was too general and uncertain, viz. That Sir *Matthew Kirwood*, or some other person or persons by his order, privity or consent, received and had in their custody of the said *Edward Pauncefort*, or his clerk or agents, money and bills touching the said revenues belonging to the King; and that by the means thereof Sir *Matthew Kirwood* received several sums of money amounting to 13790*l.* 8*s.* 3 $\frac{1}{4}$ *d.* which he had not paid or satisfied, tho' often requested; and it was insisted that this was uncertain, both as to the persons of whom the money was received, and by whom the receipt was, and involved together several facts of different natures.

Ans. In answer to this objection it was urged, That this was sufficiently certain, because in the conclusion of the replication it was alledged, that by means of several particulars before-mentioned, Sir *Matthew Kirwood* received several sums of money amounting to 13790*l.* 8*s.* 3 $\frac{1}{4}$ *d.* And in case of bonds of this kind it has been often held, that it was not necessary to shew of what persons in particular the several sums were received; but however that should be, the averment of the receipt was only the introduction to the breach, and that the real assignment of the breach was the non-payment: But it was farther insisted, that whatever force there might have been in this objection, had the case stood upon a general demurrer to the replication, yet it was now supplied by the defendant's rejoinder, who by passing over the receipt and taking issue upon the other fact, viz. that he had paid the said sum of 13790*l.* 8*s.* 3 $\frac{1}{4}$ *d.* had admitted the receipt of the money: And of this opinion was the whole court.

On the several arguments of this cause these cases were cited by the counsel.

Hardr. 227. *Stat.* 30 H. 8. c. 29. 1 *Ventr.* 166. *Raym.* 225. 2 *Cro.* 339, 220, 170. *Stat.* 8 & 9 W. 3. cap. 10. *Plow.* 60. 2 *Saund.* 124. 2 *Leo.* 34. 7 *Co.* 19. *Savill* 111. 10. pl. 25. 4 *Inst.* 115. *Godb.* 290. 3 *Cro.* 328, 708, 903, 917. *Dy.* 67, 197, 328. *Peck's case* in the Exchequer. *Cro. Eliz.* 253, 393. *Lut.* 579. 1 *Lev.* 94, 194. 3 *Lev.* 393.

This judgment 4 Decemb. 1721, was affirmed by the house of Lords on a writ of error there.

Trespas.

Farnaby against Reeves and others.

Trin. 11 A. Roll 1562.

Kent, to wit. **T** *Thomas Reeves* late of *Sevenoake* in the county aforesaid, wheelwright, *Thomas Billingsby* late of the same in the county aforesaid, labourer, *George Adams* late of the same in the county aforesaid, labourer, *John Willington* late of the same in the county aforesaid, labourer, *Thomas Wright* late of the same in the county aforesaid, labourer, *Henry Holland* late of the same in the county aforesaid, labourer, and *Richard Hope* late of the same in the county aforesaid, labourer, were attached to answer to *Francis Farnaby*, Esq; in a plea, why with force and arms the closes of him the said *Francis*, at *Sevenoake* aforesaid, they broke, and his grafs to the value of 20s. there lately growing with their feet by walking trod down and consumed, and his other grafs, to the value of 40s. there likewise lately growing with certain cattle eat up, trod down and consumed, and his trees to the value of 10l. there lately growing cut down, took and carried away, and in his soil there dug, making a certain ditch there, whereby the same *Francis* the profit of his soil aforesaid for a long time lost, and in his other soil there dug, making another ditch there, whereby the said *Francis* the profit of his same soil aforesaid for a long time lost, and his other soil there with carts subverted, whereby the same *Francis* the profit of his same soil for a long time lost, and other outrages on him committed, to the great damage of him the said *Francis*, and against the peace of the Lady the now Queen, &c. And whereon the said *Francis* by *Henry Streatfield* his attorney complains, that the said *Thomas*, *Thomas*, &c. on the first day of *June* in the 10th year of the reign of the Lady the now Queen, with force and arms, &c. his closes, to wit, one close called *Foxglove*, one other close called *Broadfield*, and one other close called *Oxenlease*, otherwise *Becketts*, at *Sevenoake* broke, and his grafs to the value, &c. there lately growing with their feet by walking trod down and consumed, and his other grafs to the value, &c. there likewise lately growing with certain cattle, to wit, horses, oxen, cows, hogs and sheep, eat up, trod down and consumed, and his trees, to wit, 5 oaks, 7 elms and 8 ashes, to the value, &c. there lately growing cut down, took and carried away, and in the soil, to wit, 10 acres of his land there dug, making a certain ditch in length 40 rods and an half, and in breadth 8 feet, whereby the said *Francis* the profit of his soil aforesaid for a long time, to wit, for the space of three months then next ensuing lost, and in other soil, to wit, 10 acres of his land there dug, making another ditch, in length 17 rods and in breadth 6 feet, whereby the said *Francis* the profit of his same soil for a long time, to wit, for the space of three months then next ensuing lost, and other soil, to wit, one acre and an half of his land there with carts subverted, whereby the said *Francis* the profit of his same soil for a long time, to wit, for the space of three months then next ensuing, lost, the trespass aforesaid, as to the treading down and consuming the said grafs with their feet by walking, and the eating up, treading down and consuming the other grafs aforesaid, with the cattle, from the said first day of *June* in the 10th year of the reign of the said Lady the Queen above said unto the first day of *April* in the 11th year of the reign of the said Lady the Queen, at sundry days and times continuing, and other outrages, &c. to the great damage, &c. and against the peace, &c. whereby he says that he is prejudiced, and hath damage to the value of 20l. And therefore he produces the suit, &c.

Error on a judgment in C. B. in trespass.
Count on the writ.
Trespass in breaking plaintiff's close, and consuming the grafs with cattle.
Cutting down the trees.
Digging the soil.
Making ditches, and subverting the soil with carts.
Count upon the writ.
The closes particularly set forth.
The cattle.
The trees.
The soil.
The length and breadth of the ditches.
Per quod plaintiff lost the profit for 3 months.

As to the force and arms, cutting the trees and digging one ditch, Not guilty.

As to the trespass with the cattle, &c. they prescribe for a way.

And the said *T. Reeves, T. Billingsby, &c.* by *J. Lilly* their attorney come and defend the force and injury when, &c. and as to the force and arms, and whatever is against the peace of the said Lady the Queen, and as to the cutting, taking and carrying the oaks, elms and ashes in the declaration aforesaid mentioned, and the digging of the ditch aforesaid in the declaration aforesaid likewise mentioned, to be in length 17 rods, and in breadth 6 feet, say, that they are in no wise guilty thereof: And of this they put themselves on the country: And the said *Francis* thereof likewise: And as to the breaking the closes aforesaid of him the said *Francis*, called *Foxglove, Broadfield and Oxenlease*, otherwise *Becketts*, and the treading down and consuming of the grafs of him the said *Francis* in the closes aforesaid growing with their feet by walking, and the eating up, treading down and consuming the other grafs of him the said *Francis* in the same closes of him the said *Francis* growing, and the continuance thereof for the time aforesaid in the declaration aforesaid mentioned, with the cattle, and the subverting the soil of him the said *Francis* there with the carts, the said *T. Reeves, T. Billingsby, &c.* say, that the said *Francis* ought not to have his action aforesaid thereof against them, because they say, that long before the said time when the trespass aforesaid is supposed to be done, and at the said time when, &c. the said *T. Reeves* was and yet is seised in his demesne as of fee of and in a close called *Foxglove*, and of and in another close called *Foxglove Wood* in *Sevenoake* aforesaid; and the same *T. Reeves*, and all those whose estate he hath in the said closes of him the said *T. Reeves*, called *Foxglove and Foxglove Wood*, for time immemorial have used and been accustomed to have a certain way for themselves, their servants, farmers and tenants, as well a horse-way as a foot-way, leading from the King's highway in *Sevenoake* aforesaid, in, by and thro' the said closes of him the said *Francis*, called (*as above*) unto the said closes of him the said *T. Reeves*, called, (&c.) and so back from the said closes of him the said *T. Reeves*, called (*as before*) in, by and thro' the said closes of him the said *Francis*, called, &c. to the King's highway aforesaid, to pass and repass, ride and ride back, drive and drive back their cattle, and to carry and carry back, draw and draw back their carts and carriages at all times of the year at their will, as to the closes of him the said *T. Reeves* belonging and appertaining; and the said *T. Reeves* of the said closes called *Foxglove and Foxglove Wood* so being seised, the said *T. Reeves* in his own right, and the said *T. Billingsby, George, &c.* as servants of the said *T. R.* and by his command at the said time when, &c. from the said King's highway unto the said closes of him the said *T. Reeves*, called, &c. in, by and thro' the said closes of him the said *Francis*, called (*as above*) passed, and the cattle, to wit, the horses and oxen of him the said *T. Reeves*, then drawing the carts of him the said *T. Reeves*, from the King's highway aforesaid unto the said closes of him the said *T. Reeves*, called, &c. in, by and thro' the said closes of him the said *Francis*, called, &c. in the way aforesaid in the said closes of the said *Francis* drove, and back from the same closes of him the *T. Reeves*, called *Foxglove and Foxglove Wood*, to the King's highway aforesaid, in, by and thro' the said closes of him the said *Francis*, called, &c. in the way aforesaid in the same closes of the said *Francis* passed, and the said horses and oxen of him the said *T. Reeves*, then drawing the said carts of him the said *T. Reeves*, from the said closes of him the said *T. Reeves*, called, &c. unto the King's highway aforesaid, in, by and thro' the said closes of him the said *Francis*, called, &c. in the way aforesaid in the same closes of him the said *Francis* drove back, and other cattle of him the said *T. Reeves*, to wit, the cows, hogs and sheep, of him the said *T. Reeves* aforesaid, from the King's highway aforesaid unto the said closes of him the said *T. Reeves*, called, (*as before*) in, by and thro' the said closes of him the said *Francis*, called, (&c.) in the way aforesaid in the same closes of him the said *Francis* drove, using the same way in the said closes of him the said *Francis* in form aforesaid, as they lawfully might; and that in the same passing and repassing, driving and driving back, and driving and using the way aforesaid in the said closes of him the said *Francis* in form aforesaid, at the sundry times in the declaration aforesaid mentioned, the same *T. Reeves, T. Billingsby, (&c.)* the said closes of him the said *Francis* a little broke, and the grafs aforesaid in the way aforesaid in the said closes of him the said *Francis* then growing with their feet by walking a little trod down and consumed, and the horses, oxen, cows, hogs and sheep aforesaid, other grafs in the way aforesaid in the said closes of him the said *Francis* then growing a little trod down and consumed, and against the will of them the said *T. Reeves, T. Billingsby, (&c.)* eat up, and also the said *T. Reeves, T. Billingsby, (&c.)* the soil of the same closes of him the said *Francis* by the same driving of the carts aforesaid subverted, which is the same trespass, as to the breaking of the closes aforesaid of him the said *Francis*, called, (&c.) and the treading down and consuming of the grafs aforesaid of him the said *Francis* in the closes aforesaid growing, with their feet by walking, and the eating up, treading down and consuming of other grafs of him the said *Francis* in the said closes of him the said *Francis* growing, with the cattle aforesaid, and the continuance thereof for the time aforesaid in the declaration aforesaid mentioned, and the subverting the soil of him the said *Francis* with carts, whereof the said *Francis* above now complains: And this they are ready to verify: Wherefore they pray judgment if the said *Francis* ought to have his action aforesaid thereof against them,

them, &c. And as to the digging of the ditch in the declaration aforesaid mentioned to contain 40 rod and an half in length and 8 feet in breadth, the same *T. Reeves*, *T. Billingsby*, &c. say, that the said *Francis* ought not to have his action aforesaid thereof against them, because they say, that the said *Francis* before the said time when, &c. to wit, on the said 1st day of June in the 10th year above said, at *Sevenoake* aforesaid, gave him the said *T. Reeves* leave to dig the same ditch; by virtue whereof the said *T. Reeves* in his own right, and the said *T. Billingsby* and *George*, &c. as servants of the said *T. Reeves*, and by his command, the said time when, &c. did dig the said ditch in the declaration aforesaid mentioned to contain 40 rod and an half in length and 8 feet in breadth, as they lawfully might: And this they are ready to verify: Wherefore they pray judgment if the said *Francis* ought to have his action aforesaid thereof against them, &c.

And the said *Francis* as to the said plea of the said *Thomas*, *Thomas*, *George*, *Alexander*, *John*, *Thomas*, *Henry* and *Richard*, the now defendants, as to the breaking of the closes the first plea; aforesaid of the said *Francis*, called *Foxglove*, *Broadfield*, &c. treading down and consuming of the grafs of him the said *Francis* in the same closes growing, with their feet by walking, and eating up, treading down and consuming of other grafs of him the said *Francis* in the same closes growing, and subverting the soil of him the said *Francis* there with carts above pleaded, says, that he by any thing in the same plea before alledged ought not to be precluded from having his action aforesaid against them, because he says, that they of their own wrong those closes broke, and the grafs there growing with their feet by walking trod down and consumed, and other grafs there growing with the cattle aforesaid eat up, trod down and consumed, and the soil there with carts subverted, as the said *Francis* above against them complains; without that, that the said *T. Reeves*, and all those whose estate he hath in the said closes of him the said *T. Reeves*, called *Foxglove* and *Foxglove Wood*, for time immemorial have had, have been used and accustomed to have, a certain way for themselves, their servants, farmers and tenants, as well a foot-way as a horse-way, leading from the King's highway in *Sevenoake* aforesaid, in, by and thro' the said closes of him the said *Francis*, called, &c. unto the said closes of him the said *T. Reeves*, called, &c. and so back from the said closes of him the said *T. Reeves* in, by and thro' the said closes of him the said *Francis*, called, &c. to the King's highway aforesaid, to pass and repass, ride and ride back, drive and drive back their cattle; and to carry and carry back, draw and draw back their carts and carriages at all times of the year at their will, as to the said closes of him the said *T. Reeves* belonging and appertaining, as by the plea aforesaid is above in that behalf supposed: And this he is ready to verify: Wherefore he prays judgment and his damages by reason of that trespass, to be adjudged to him, &c. And as to the said plea of the said *Thomas*, *Thomas*, *George*, &c. the now defendants, as to the digging of the ditch aforesaid in the declaration aforesaid mentioned to contain 40 rods and an half in length and 8 feet in breadth above pleaded, he says, that by any thing in the same plea before alledged he ought not to be precluded from having his action aforesaid thereof against them, because he says, that he the same *Francis* did not give him the said *T. Reeves* leave to dig the same ditch, as by the plea aforesaid is in that behalf above supposed: And this he prays may be inquired of by the country: And the said *Thomas*, *Thomas*, &c. the now defendants thereof likewise, &c.

And the said *Thomas*, *Thomas*, &c. as to the breaking of the closes aforesaid of him the said *Francis*, called (as before) and treading down and consuming of the grafs of him the said *Francis* in the same closes growing with their feet by walking, and eating up, treading down and consuming other grafs of him the said *Francis* in the same closes of him the said *Francis* growing, with cattle, and the continuance thereof for the time aforesaid in the declaration aforesaid mentioned, and subverting the soil of him the said *Francis* there with carts, as before say, that the said *T. Reeves*, and also those whose estate he hath in the said closes of him the said *T. Reeves*, called, &c. for time immemorial have had, have been used and accustomed to have, a certain way for themselves, their servants, farmers and tenants, as well a foot-way as a horse-way, leading from the King's highway in *Sevenoake* aforesaid, in, by and thro' the said closes of him the said *Francis*, called, &c. unto the said closes of him the said *T. Reeves*, called, &c. and so back from the said closes of him the said *T. Reeves*, called, &c. in, by and thro' the said closes of him the said *Francis*, called, &c. to the King's highway aforesaid, to pass, repass, ride and ride back, drive and drive back their cattle, and to carry and carry back, draw and draw back their carts and carriages at all times of the year at their wills, as to the said closes of him the said *T. Reeves* belonging and appertaining, as they the said *Thomas*, *Thomas*, &c. have above alledged: And of this they put themselves on the country: And the said *Francis* likewise: Therefore as well to try that issue as the said other issues between the parties aforesaid above joined, the sheriff is commanded, that he cause to come here from the day of the Holy Trinity in three weeks 12, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. On which day the jury between the parties aforesaid in the plea aforesaid was put thereof between them in respite

And as to the digging the other ditch, they plead a licence from the plaintiff.

de injuria sua propria,

and traverses the prescription.

As to the 2d plea the plaintiff denies the licence.

Issue on the traverse.

Verdict award:

respice here until this day, to wit, from the day of *St. Michael* in three weeks then next ensuing, unless the justices of the said Lord the King, assigned to take assises in the county aforesaid, by the form of the statute, &c. should first come on the 31st day of *July* last past at *Maidstone* in the county aforesaid: And now here on this day comes the said *Francis* by his attorney aforesaid; and the said justices of assise before whom, &c. have sent here their record in these words: Afterwards the day and year within contained, before *George Treby*, Knt. chief justice of the Lord the King of the Bench, and *Henry Harpell*, Knt. one of the barons of the Exchequer of the said Lord the King, justices of the said Lord the King, assigned to take assises in the county of *Kent*, by the form of the statute, &c. comes the within named *Francis Farnaby*, Esq; by his attorney within contained, and the within written *Thomas Reeves*, *Thomas Billingsby*, (and the other defendants) altho' solemnly called, have not come, but have made default; therefore let the jury, whereof mention is within made, be taken against them by default; whereupon the jurors of that jury being called, some of them, to wit, *William Thompson*, &c. (reciting nine jurors) have come, and on that jury are sworn: And because the rest of the jurors of that jury have not appeared, therefore others from the by-standers by the sheriff of the county aforesaid hereto elected, at the request of the said *Francis Farnaby*; and by the command of the justices aforesaid, are added anew, whose names to the panel within written are put, according to the form of the statute in such case made and provided; and the jurors so added anew, to wit, *T. Oliver*, *R. S.* and *R. W.* being called come, who to say the truth of the within contained, together with the other jurors aforesaid first impanelled and sworn, being elected, tried and sworn, as to the force and arms, and whatever is against the peace of the said Lord the King; as to the cutting down, taking and carrying away of the oaks, elms and ashes in the declaration within mentioned, and the digging of the ditch within mentioned in the declaration aforesaid specified to be in length 17 rods and in breadth 6 feet, in the first issue between the parties aforesaid within joined mentioned, say on their oath, that the said *Thomas Reeves*, *Thomas Billingsby*, &c. are guilty, in manner and form as the said *Francis Farnaby* within against them complains; and they assess the damages of the said *Francis Farnaby*, by reason of that trespass, besides his costs and charges by him about his suit in this behalf sustained, to 20*s.* And as to the digging of the ditch in the declaration aforesaid mentioned to contain 40 rods and an half in length and 8 feet in breadth, within pleaded, in the second issue between the parties aforesaid within likewise joined, the jurors aforesaid farther say on their oath, that the said *Francis* did not give leave to the said *Thomas Reeves* to dig the same ditch, as the said *Francis* within thereto in replying hath alledged; and they assess the damages of him the said *Francis*, by reason of that trespass in digging of that ditch last mentioned, besides his costs and charges by him about his suit in this behalf sustained, to 4*l.* And as to the breaking of the closes within written of him the said *Francis*, called, &c. and the treading down and consuming of the grass of him the said *Francis* in the same closes growing, with their feet by walking, and eating up, treading down and consuming other grass of him the said *Francis* in the same closes of him the said *Francis* growing, with cattle, and the continuance thereof for the time within written in the declaration aforesaid mentioned, and the subverting the soil of him the said *Francis* there with carts, in the third issue between the parties aforesaid within likewise joined mentioned, the jurors aforesaid farther say on their oath that the said *Thomas Reeves*, and all those whose estate he hath in the said closes of him the said *Thomas Reeves*, called, &c. have not for time immemorial had, nor have been used and accustomed to have, a certain way for their servants, farmers and tenants, as well a foot-way as a horse-way, leading from the King's highway in *Sevenoake* aforesaid, in, by and thro' the said closes of him the said *Francis*, called, &c. unto the said closes of him the said *Thomas Reeves*, called, &c. and so back from the said closes of him the said *Thomas Reeves*, called, &c. in, by and thro' the said closes of him the said *Francis*, called, &c. to the King's highway within mentioned, to pass, repass, ride, ride back, drive and drive back their cattle, and to carry and carry back, draw and draw back their carts and carriages at all times of the year at their will, as to the said closes of him the said *Thomas Reeves* belonging and appertaining, as the said *Francis* within thereof against them complains: And they assess the damages, &c.

The Postea.

Verdict for the plaintiff as to the first issue.

And as to the second.

And as to the third.

Albe against Cowdale and others.

City of Coventry, to wit. **J**OHN Albe complains of Michael Cowdale, Robert Staples, William Dolton and Henry Heywood, being in the custody of the marshal of the Marshalsey of the Lord and Lady the King and Queen before the King and Queen themselves, for this, that they on the 12th day of January in the fifth year of the reign of the Lord and Lady William and Mary, now King and Queen of England, &c. with force and arms, &c. on him the said John, at the city of Coventry aforesaid in the county of the same city, made an assault, and him then and there beat, wounded and ill treated, to wit, by giving him so many and so grievous wounds on the head, arms, hands and thighs of him the said John, that they the left thigh of him the said John then and there broke, by reason whereof the said John became lame in that thigh; and the business of the said John happening in the mean time, from the said 12th day of January in the fifth year aforesaid until the day of the exhibition of this bill, was neglected and remained undone, so that his life was despaired of; and also for this, that they the said Michael, William, Robert and Henry afterwards, to wit, on the 10th day of April in the fifth year aforesaid, with force and arms, &c. on him the said John at the city of Coventry aforesaid made an assault, and him then and there beat, wounded and ill treated, so that his life was greatly despaired of, and other outrages committed on him, against the peace of the said Lord and Lady the now King and Queen, and to the damage of him the said John 100*l*. And therefore he produces the suit, &c.

For breaking
the plaintiff's
thigh.

Harding against Wood.

Stafford, to wit. **I**T is granted by the court here, that Jane Harding, widow, may prosecute for Charles Harding, who is under the age of 21 years, as the next friend of the said Charles, against Peter Wood, in a plea of trespass and assault.

Warrant of
the attorney for
an infant
plaintiff.

Stafford, to wit. **P**eter Wood puts in his place Peter Cottingham his attorney against the said Charles Harding in the plea aforesaid.

Warrant for
the defendant.

Stafford, to wit. **B**E it remember'd, that otherwise in Michaelmas term last before the Lady the Queen at Westminster came Charles Harding, who is under the age of 21 years, by Jane Harding his next friend, hereto by the court specially admitted, and produced in the court of the said Lady the Queen then there his certain bill against Peter Wood in the custody of the marshal, &c. in a plea of trespass and assault: And there are pledges to prosecute, to wit, John Doe and Richard Roe; which said bill follows in these words, to wit, Stafford, to wit, Charles Harding, who is under the age of 21 years, by Jane Harding his next friend, hereto by the court specially admitted, complains of Peter Wood in the custody of the marshal, &c. for this, that he on the first day of October in the 6th year of the reign of the Lady the now Queen with force and arms, to wit, with swords, staves and knives, on him the said Charles, at Stone in the county aforesaid, made an assault, and him beat, wounded and ill treated, so that his life was greatly despaired of; and other outrages on him then and there committed, against the peace of the said Lady the now Queen, and to the damage of the said Charles 40*l*. And therefore he produces the suit, &c.

For an assault
and battery
on an infant.

And now on this day, to wit, Friday next after the Octave of St. Hillary in this same term, until which day the said Peter Wood had leave to imparl to the bill aforesaid, and then to answer, &c. before the Lady the Queen at Westminster comes as well the said Charles by his next friend aforesaid, as the said Peter Wood by Peter Cottingham his attorney; and the said Peter Wood defends the force and injury when, &c. And as to the

As to the force and arms, and wounding, Not guilty. As to the residue, that E. was possessed of a stable and horses in N. in another county. That plaintiff against the will of E. entred therein, disturbed his horses, and refusing to depart, defendant as servant of E. and in defence of his master's possession, *molliter manus imposuit*, to put him out. *Quæ sunt resid' transg'r.*

Traverse.

Repl' *de injuria sua propria.*

Suggestion that the issue ought to be tried at Chester.

force and arms, or any thing that is against the peace of the said Lady the now Queen, and also the wounding of him the said Charles, the said Peter says that he is not guilty thereof: And of this he puts himself on the country: And the said Charles likewise: And as to the residue of the trespass and assault aforesaid above supposed to be committed, the same Peter says, that the said Charles ought not to have or maintain his action aforesaid thereof against him, because he says, that one Edward Minshall, Esq; long before the said time when the trespass and assault aforesaid is above supposed to be committed, and also at the said time when, &c. was possessed of a stable in Nantwich in the county of Chester, in which said stable the same Edward at the said time when, &c. kept his horses; and the same Edward so being thereof possessed, the said Charles at the same time when the trespass and assault aforesaid is above supposed to be committed, to wit, on the said first day of October in the sixth year aforesaid, at Nantwich aforesaid in the county aforesaid, into the stable of him the said Edward, in and upon the possession of him the said Edward, with force and arms, and against the will of him the said Edward entred, and him the said Edward in the quiet possession thereof disturbed, and certain horses of him the said Edward in the stable aforesaid then being disturbed, frightened and startled, whereupon the same Peter, then being servant of the said Edward, and by the command of the said Edward his master, then having the care of the said stable and of the said horses in the said stable, by his order at the said time when, &c. went to the said Charles, then being in the said stable, and required him to go out of the same stable, and to do no farther damage in that stable; and the said Charles would not then go out of the same stable; wherefore the said Peter at the said time when, &c. as servant of the said Edward, and in defence of his possession of his stable aforesaid, and of his horses then being in the same stable, and to compel the said Charles to go out of that stable, then and there gently laid his hands on the same Charles, then being in the same stable, to put him the said Charles out of the stable aforesaid, as he lawfully might, which is the same residue of the trespass and assault aforesaid whereof the said Charles above now complains; without that, that the same Peter is guilty of the trespass and assault aforesaid, at Stone aforesaid, or elsewhere, out of Nantwich aforesaid in the said county of Chester: And this he is ready to verify: Wherefore he prays judgment if the said Charles ought to have or maintain his action aforesaid thereof against him, &c.

And the said Charles says, that he by any thing by the said Peter above in pleading alledged ought not to be precluded from having his action aforesaid thereof against him, because he says, that the said Peter of his own wrong, and without such cause by him the said Peter above in pleading alledged, made an assault on him the said Charles, and him the said Charles beat, wounded and ill treated, in manner and form as the said Charles above against him complains: And this he prays may be inquired of by the country: And the said Peter likewise, &c. And because the several issues between the parties aforesaid above joined ought to be tried by the men of the county palatine of Chester, where the writ of the Lady the Queen doth not run, and not elsewhere; therefore let the record of the plea aforesaid be sent to the justices of the said Lady the Queen of the county of Chester aforesaid, so that the same justices, by the writ of the Lady the Queen of that county duly to be made, cause the sheriff of the same county to be commanded, that he cause to come before the same justices of the said Lady the Queen of the county of Chester aforesaid at the next sessions for that county, after the record aforesaid shall be delivered to them, 12 free and lawful men of the body of the county palatine of Chester aforesaid, by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. And when the averment and those issues shall be made and tried, that then the said justices do send the record of the plea aforesaid, with all that therein in the court of the said Lady the Queen there before them shall be done, to the Lady the Queen at Westminster on a certain day which the same justices of the county palatine of Chester aforesaid to the parties aforesaid in the same court there shall prefix, to hear thereon their judgment, &c. And the said Charles is order'd to prosecute with effect, at the peril, &c.

Higgins against Smith and others.

Warwick, to wit. **J**OHN Higgins complains of Thomas Smith the younger, John Dickins *Clausum fregit* and Thomas Wooton, in the custody of the marshal, &c. for this, that *et* they 20th day of November in the third year of the reign of the Lord and Lady William and Mary, now King and Queen of England, &c. with force and arms, &c. the close of him the said John, called Cliffe Bank in the parish of Alveston in the county aforesaid, broke and entred, and the grass of him the said John in the same close then growing, to the value of 40 s. with their feet by walking trod down and consumed, and other outrages on him then and there committed, against the peace of the said Lord and Lady the now King and Queen, and to the damage of him the said John 40 l. And therefore he produces the suit, &c.

When, &c. and as to the force and arms, or any thing that is against the peace of the Lord and Lady the now King and Queen, say, that they are not guilty thereof: And of this they put themselves on the country: And the said J. Higgins thereof likewise, &c. And as to the residue of the trespass aforesaid in the declaration aforesaid above supposed to be committed, the same Thomas, John and Thomas say, that the said John Higgins ought not to have or maintain his action aforesaid thereof against them, because they say, that long before the said time when, &c. and also at the said time when, &c. one G. Lucy, Esq; was seised and yet is seised of and in one acre of land covered with water, parcel of a certain river called Avon in the parish and county aforesaid, next and contiguous adjoining to the said close of the said John Higgins in the declaration aforesaid mentioned, in which, &c. as also of and in the several fishery in that water in his demesne as of fee; and that he the said George, and all those whose estate the said George now hath, and at the said time when, &c. had of and in the said one acre of land covered with water, and the several fishery aforesaid, for time out of mind have been used and accustomed by themselves and their servants from time to time, and at all seasonable times of fishing, the better to catch fish in that several fishery, at their will into the close aforesaid, in which, &c. to enter, and nets and other engines for the catching of fish in that fishery there near the banks of the water aforesaid to open and draw; wherefore the said Thomas, John and Thomas, as servants of the said George Lucy, and by his command, at the said time when, &c. being a seasonable time for fishing, the better to catch fish in that fishery, into the close aforesaid near the banks of the water aforesaid entred, and there the nets of the said George Lucy to catch fish in that fishery being in that water drew, and thereby the grass aforesaid in the same close then growing with their feet by walking trod down and consumed, as they lawfully might, which is the same residue of the trespass aforesaid whereof the said John Higgins in that behalf above now complains: And this they are ready to verify: Wherefore they pray judgment if the said John Higgins ought to have or maintain his action aforesaid thereof against them.

Edw. Northey.

And the said John Higgins says, that he by any thing by the said Thomas Smith, John Bar de in- Dickins and Thomas Wooton, above in pleading alledged ought not to be precluded from having his action aforesaid thereof against them, because he says, that the said Thomas, John and Thomas, the day and year aforesaid in the declaration aforesaid mentioned, of their own wrong the close aforesaid of him the said John Higgins in the declaration aforesaid mentioned broke and entred, and the grass of him the said John Higgins in the same close then growing, to the value of 40 s. with their feet by walking trod down and consumed, as the said John Higgins hath above thereof against them declared; without that, that the said George Lucy, and all those whose estate he hath, and at the said time when, &c. had of and in the said one acre of land covered with water, and the several fishery aforesaid, for time out of mind have been used and accustomed for themselves and their servants from time to time, and at all seasonable times of fishing, the better to catch fish in that several fishery, at their will into the close aforesaid of him the said John Higgins to enter, and the nets and other engines for the catching of fish in that fishery there near the banks of the water aforesaid to open and draw, in manner and form as the said Thomas, John and Thomas, have above by pleading alledged: And this he is ready to verify: Wherefore for that the said Thomas, John and Thomas, have above acknowledged the trespass aforesaid, the same John Higgins prays judgment, and his damages, by reason of that trespass, to be adjudged to him, &c.

And

Rejoinder and
issue on the
traverse.

The Postea.

13 E. 1. c. 30.

12 E. 2. c. 4.

14 E. 3. c. 16.

Special ver-
dict.

And the said *Thomas, John* and *Thomas* as before say, that the said *G. Lucy*, and all those whose estate the same *George* now hath, and at the said time when, &c. had of and in the said one acre of land covered with water, and the several fishery aforesaid for time out of mind have been used and accustomed by themselves and their servants from time to time, and at all seasonable times of fishing, the better to catch fish in that several fishery, at their will into the close aforesaid of him the said *J. Higgins* to enter, and the nets and other engines for the catching of fish in that fishery there near the banks of the water aforesaid to open and draw, in manner and form as they the said *Thomas, John* and *Thomas* have above by pleading alledged: And of this they put themselves on the country: And the said *John Higgins* thereof likewise, &c. Therefore let a jury thereon come before the Lord and Lady the King and Queen at *Westminster* on *Monday* next after the Octave of the Purification of the Blessed *Mary*, and who neither, &c. to recognize, &c. because as well, &c. The same day is given to the parties aforesaid there, &c. Afterwards the proceedings thereof between the parties aforesaid in the plea aforesaid being continued by the jury aforesaid, being put thereof between them in respite before the Lord and Lady the King and Queen at *Westminster* until *Wednesday* next after 15 days of *Easter* thence next ensuing, unless the justices of the Lord and Lady the King and Queen, assigned to take assises in the county aforesaid, should first come on *Tuesday* the 20th day of *April* in the year above said, at *Warwick* in the county aforesaid, by the form of the statute, &c. for want of jurors, &c. On which day before the Lord and Lady the King and Queen at *Westminster* come as well the said *John Higgins* as the said *Thomas, John* and *Thomas* by their attornies aforesaid: And the said justices of the Lord and Lady the King and Queen of assise, before whom, &c. have sent here their record before them had in these words, to wit, Afterwards the day and year, within contained, before *E. N. Knt.* one of the justices of the Lord and Lady the King and Queen of the Bench, and *G. D. Esq;* to the same *E. N.* and *W. G. Knt.* one of the justices of the said Lord and Lady the King and Queen, assigned to hold pleas before the King and Queen themselves, justices of the said Lord and Lady the King and Queen, assigned to take assises in the county of *Warwick*, by the form of the statute, &c. for this time associated, the presence of the said *W. G.* being not expected, by virtue of the writ of the said Lord and Lady the King and Queen of *Si non omnes*, &c. come as well the said *J. H.* as the within written *T. J.* and *T.* by their attornies within contained; and the jurors of the jury, whereof mention is within made, being called likewise come, who to say the truth of the within contained, being elected, tried and sworn, say on their oath, that the close within written of the said *J. Higgins*, called *Cliffe Bank* within mentioned, is, and for time out of mind was, parcel of the manor of *Alveston* in the county of *Warwick*; the within written one acre of land of the said *G. Lucy* covered with water, parcel of the said river called *Avon* in the parish of *Alveston* within written within mentioned, is, and for time out of mind was, parcel of the manor of *Bishop Hampton* in the county of *Warwick* aforesaid; and that long before the within written time when, &c. the Lord *Edward* the Sixth, late King of *England*, was seised of and in the manors of *Alveston* and *Bishop Hampton* aforesaid, and of and in the said close in which, &c. called *Cliffe Bank*, and of and in one acre of land covered with water, parcel of the said river called *Avon*, together with the several fishery in that water, in his demesne as of fee in the right of his crown of *England*; and being so thereof seised, of such his estate died thereof seised; after whose death the manors of *Alveston* and *Bishop Hampton* aforesaid with the appurtenances, and also the said place in which, &c. and the said one acre of land covered with water, and the several fishery aforesaid, descended to the Lady *Mary*, late Queen of *England*, as sister and heir of the said late King *Edward* the Sixth, whereby the same late Queen was seised of the manors aforesaid with the appurtenances, and also of the said place in which, &c. and of the said one acre of land covered with water, and the several fishery aforesaid, in her demesne as of fee in the right of her crown of *England*; and being so thereof seised, the Lord *Philip* and the said Lady *Mary*, then King and Queen of *England*, by their letters patent sealed under the great seal of *England*, bearing date at *Westminster* the 12th day of *June* in the 3d and 4th year of their reign, gave and granted to one *J. L. Esq;* among other things, the manor of *Bishop Hampton* aforesaid, and also the said one acre of land covered with water, together with the several fishery in the water aforesaid, and all lands, tenements, meadows, pastures, moors, marshes, waters, fisheries and court-leets, with all and singular rights, profits, commodities and advantages, to the said manor howsoever belonging; To have and to hold to the said *T. Lucy*, his heirs and assigns for ever: By virtue whereof the said *T. Lucy* into the manor aforesaid with the appurtenances, and into the said acre of land covered with water, and the several fishery aforesaid, entred, and was thereof seised in his demesne as of fee; and being so thereof seised died; and that that manor and the said one acre of land covered with water, and the several fishery aforesaid, by several discent from the said *T. Lucy* descended by hereditary right to the said *G. Lucy* in the plea within written mentioned, whereby the said *G. Lucy* is now seised of and in the manor of *Bishop Hampton* aforesaid with the appurtenances, whereof the said acre of land covered with water with the appurtenances, and the several fishery aforesaid, is parcel, in his demesne as of fee: And the jurors aforesaid on their oath aforesaid farther say, that the said Lady *Mary*, late

late

late Queen of *England*, of the said manor of *Alveston* as aforesaid, being seised in her demesne as of fee in the right of her crown of *England*, of such her estate thereof died seised; after whose death the manor of *Alveston* aforesaid with the appurtenances descended to the Lady *Elizabeth*, late Queen of *England*, as sister and heir of the said Lady *Mary*, late Queen of *England*, whereby the same Lady *Elizabeth*, late Queen of *England*, was seised of the manor of *Alveston* aforesaid with the appurtenances in her demesne as of fee in the right of her crown of *England*; and being so thereof seised, the same Lady *Elizabeth*, then Queen of *England*, by her letters patent sealed under the great seal of *England*, bearing date at *Westminster* the 4th day of *April* in the 4th year of her reign, of her special grace, certain knowledge and meer motion, gave and granted to *E. W.* and *R. B.* Gent. among other things, the manor of *Alveston* aforesaid with the appurtenances in the said county of *Warwick*, and all lands, tenements, meadows, fisheries, pastures, woods, underwoods, rents, reversions, services and other hereditaments whatsoever with the appurtenances to the said manor belonging or appertaining; To have and to hold to the said *E. W.* and *R. B.* their heirs and assigns for ever: By virtue whereof they the said *E. W.* and *R. B.* into the manor of *Alveston* aforesaid with the appurtenances entred, and were thereof seised in their demesne as of fee: And the jurors aforesaid on their oath aforesaid farther say, that the estate of them the said *E. W.* and *R. B.* of and in the said close called *Cliffe Bank*, being the said place in which, &c. and parcel of the manor of *Alveston* aforesaid with the appurtenances, by several legal conveyances long before the said time when, &c. came to one *T. Peers*, Esq; and his heirs: By virtue whereof the said *T. Peers* into the close aforesaid called *Cliffe Bank*, being the said place in which, &c. with the appurtenances entred, and was and yet is thereof seised in his demesne as of fee; and so being thereof seised, he the said *T. Peers* before the said time when, &c. to wit, on the first day of *November* in the third year of the reign of the Lord and Lady the now King and Queen, demised to the said *John Higgins* the close aforesaid, called *Cliffe Bank*; To have and to hold to the same *John* and his assigns from the feast-day of *St. Michael* the Archangel then last past unto the full end and term of one year from thence next ensuing, and so from year to year as long as both parties should please: And that by virtue of the demise aforesaid the said *John Higgins* afterwards, to wit, on the 6th day of *November* in the said third year of the reign of the said Lord and Lady the King and Queen into the close aforesaid called *Cliffe Bank* with the appurtenances entred, and was and is yet thereof possessed: And the jurors aforesaid on their oath aforesaid farther say, that for time out of mind the said *G. Lucy*, and all those whose estate the same *George* now has, and at the said time when, &c. had of and in the said one acre of land covered with water, and the several fishery aforesaid, for time out of mind have been used and accustomed by themselves and their servants from time to time, and at all seasonable times of fishing, the better to catch fish in the several fishery aforesaid, at their will into the close aforesaid called *Cliffe Bank* in which, &c. to enter, and the nets and other engines to catch fish in that fishery there near the banks of the water aforesaid to open and draw, as the said *Thomas*, *John* and *Thomas*, have above for themselves by pleading alledged: But whether on the whole matter aforesaid by the jurors aforesaid in form aforesaid found, the liberty of entering into the said close called *Cliffe Bank* in which, &c. and the nets and other engines for the catching of fish in that fishery there of opening and drawing for the better catching of fish be in law extinguished, by reason of the said unity of possession so as aforesaid found or not, the jurors aforesaid are wholly ignorant, and thereof pray the advice and consideration of the court here: And if upon the whole matter aforesaid by the jurors aforesaid in form aforesaid found, it shall appear to the court of the Lord and Lady the King and Queen now here, that the said liberty of entering into the close aforesaid called *Cliffe Bank* in which, &c. and the nets and other engines for the catching of fish in that fishery there of opening and drawing for the better fishing, be in law extinguished by reason of the unity of possession so as aforesaid found, then the same jurors say on their oath, that they the said *Thomas*, *John* and *Thomas* are guilty of the trespass aforesaid in the declaration aforesaid mentioned, in manner and form as the said *John Higgins* within against them thereof complains; and they assess the damages of him the said *John Higgins* by reason thereof, besides his costs and charges by him about his suit in this behalf expended, to 12*d.* and for those costs and charges to 53*s.* 4*d.* But if on the whole matter aforesaid by the jurors aforesaid in form aforesaid found it shall appear to the court of the said Lord and Lady the King and Queen now here, that the said liberty of entering into the said close called *Cliffe Bank* in which, &c. and the nets and other engines for the catching of fish in that fishery there of opening and drawing for the better fishing, be not in law extinguished by reason of the unity of possession aforesaid so as aforesaid found: Then the same jurors on their oath aforesaid farther say, that they the said *T. J.* and *T.* are not guilty of the trespass aforesaid in the declaration aforesaid mentioned, in manner and form as the said *J. H.* within against them complains: And because the court of the said Lord and Lady the King and Queen now here

are not yet advised to give their judgment of and upon the premises, day therefore is given to the parties aforesaid before the Lord and Lady the King and Queen at *Westminster* until *Friday* next after the morrow of the Holy *Trinity* to hear their judgment thereon, because the court of the said Lord and Lady the King and Queen here thereof not yet, &c. On which day before the Lord and Lady the King and Queen at *Westminster* come the parties aforesaid by their attornies aforesaid: And because the court of the said Lord and Lady the King and Queen now here are not yet advised to give their judgment of and upon the premises, day therefore is given to the parties aforesaid before the Lord and Lady the King and Queen at *Westminster* until *Tuesday* next after 15 days of *St. Martin* to hear their judgment thereon, because the court of the said Lord and Lady the King and Queen now here thereof not yet, &c. On which day before the Lord and Lady the King and Queen at *Westminster* come the parties aforesaid by their attornies aforesaid: Whereupon all and singular the premises being seen, and by the court of the said Lord and Lady the King and Queen now here more fully understood, and mature deliberation being thereon had, it appears to the court of the said Lord and Lady the King and Queen now here, that the said liberty of entring into the said close called *Cliffe Bank* in which, &c. and the nets and other engines for the catching of fish in that fishery there of opening and drawing for the better fishing is in law extinguished, by reason of the unity of possession aforesaid: Therefore it is considered, that the said *John Higgins* do recover against the said *Thomas Smith* the younger, *John Dickins* and *Thomas Wootton*, the damages aforesaid, by the jurors aforesaid in form aforesaid assessed, and also 21 l. for his costs and charges aforesaid to the same *John Higgins* by the court of the said Lord and Lady the King and Queen now here, by his assent, of increase adjudged; which said damages in the whole amount to 23 l. 14 s. 4 d.

Judgment for
the plaintiff.

Scott against Burges.

Trespass for
lying with the
plaintiff's
wife.

Wills, to wit. **R**ichard Burges late of *Christian Malford* in the county aforesaid, druggist-maker, was attached to answer to *William Scott* in a plea, why with force and arms on *Mary* the wife of him the said *William*, at *Christian Malford* aforesaid, he made an assault, and her the said *Mary* ravished, lay with and carnally knew, and from the house of the said *William* took with him; whereby the said *William* lost and was deprived of the comfort and company of his wife aforesaid; and other outrages committed on her, to the great damage of him the said *William*, and against the peace of the Lord the now King, &c. And whereon the said *William* by *William Mathews* his attorney complains, that the said *Richard* on the first day of *June* in the third year of the reign of the Lord the now King, and at divers other days and times between that day and the second day of *October* in the fifth year of the reign of the said Lord the now King, with force and arms, &c. on the said *Mary*, the wife of him the said *William*, at *Christian Malford* aforesaid did make an assault, and her the said *Mary* did there ravish, lie with and carnally know, and from the house of him the said *William* there did take with him, whereby the said *William* lost and was deprived of the comfort and company of his said wife; and other outrages, &c. to the great damage, &c. and against the peace, &c. whereby he says that he is prejudiced, and hath damage to the value of 1000 l. And therefore he produces the suit, &c.

On Not guilty pleaded, the plaintiff obtained a verdict for 400 l.

Barnham

Barnjum against Niccolson.

Midd^e, to wit. **T**homas Barnjum complains of William Niccolson in the custody of the marshal, &c. for this, that he the said William on the 20th day of *October* in the year of the Lord 1712, with force and arms, &c. the close of him the said Thomas, called the *Ten acres*, at *Islington* in the county aforesaid, did break and enter, and his grafs to the value of 20*l.* then and there growing with his feet by walking did tread down and consume, and other grafs of him the said Thomas in the same close then likewise growing, to the value of other 20*l.* with certain cattle, to wit, horses, oxen, cows, hogs and sheep, did tread down, eat up and destroy, the trespafs aforesaid, as to the eating up, treading down and destroying of the grafs aforesaid with the cattle aforesaid, from the said 20th day of *October* in the year of the Lord 1712 abovesaid until the 13th day of *June* in the year of the Lord 1714, at sundry days and times continuing; and also for this, that he the said William on the 21st day of *May* in the year of the Lord last abovesaid, with force and arms, &c. three cows of him the said Thomas, at *Islington* aforesaid in the county aforesaid found, did take and carry away, and those cows for the space of three days did keep and detain, until the said Thomas a fine of five shillings with the said William to have a delivery of the said cows had made; and other outrages on him then and there did commit, against the peace of the said Lady the now Queen, and to the damage of the said Thomas 30*l.* And therefore he produces the suit, &c.

And the said William by J. A. his attorney comes and defends the force and injury when, &c. and as to the force and arms, and also the whole trespafs aforesaid in the declaration aforesaid above mentioned, by him the said William above supposed to be committed, except the taking and carrying away of the said three cows of him the said Thomas, and the keeping and detaining of those cows for the space of one day of the said three days in the declaration aforesaid above mentioned until the said Thomas did pay to the said William five shillings, the said William says that he is not guilty thereof: And of this he puts himself on the country: And the said Thomas thereof likewise: And as to the taking and carrying away of the said three cows, and the keeping and detaining of those cows for the space of one day of the said three days, the same William says, that the said Thomas ought not to have or maintain his action aforesaid thereof against him, because he says, that he the said William before the said time when, &c. and also at the said time when, &c. and ever after hitherto was possessed, and yet is possessed for the term of divers years then and yet to come, of and in a certain close, containing by estimation four acres of pasture with the appurtenances, situate and being in *Islington* aforesaid in the county aforesaid: And because the said three cows at the said time when, &c. were in the said close of him the said William eating up the grafs there in the same close then growing, and doing damage there, the same William the said three cows at the said time when, &c. being then and there as aforesaid in the said close of him the said William so doing damage, in the name of a distress did take and gently drive, and them in the said close of him the said William at *Islington* aforesaid did impound, and of the said impounding of the cows aforesaid of him the said Thomas in the said close of him the said William, the same William afterwards, to wit, on the 22d day of *May* in the year of the Lord 1714 abovesaid, did give notice to the said Thomas at *Islington* aforesaid; and the same William the said three cows of the said Thomas in the said close of him the said William there by the said Thomas being not replevied, for satisfaction for the trespafs aforesaid by the said cows as aforesaid done, for the said space of one day did detain, as he lawfully might, until the said Thomas voluntarily paid to the same William the said 5*s.* for and in full satisfaction of the trespafs aforesaid by the said cows of the said Thomas done as aforesaid; and the same William the said 5*s.* in full satisfaction for the damages aforesaid then and there, to wit, at *Islington* aforesaid, had and received, and upon the receipt thereof the said three cows of the said Thomas at *Islington* aforesaid did deliver; which said taking, driving and impounding of the said three cows, and the impounding and detaining of those cows in the said close of him the said William for the time aforesaid by him the said William in form aforesaid, and for the cause aforesaid done, are the same taking, carrying away, impounding, and in pound keeping and detaining of the said three cows for the space of one day of the said three days whereof the said Thomas above against him complains: And this he is ready to verify: Wherefore he prays judgment if the said Thomas ought to have or maintain his action aforesaid thereof against him, &c.

Trespafs for
treading down
and eating up
his grafs and
taking his
cows.

As to part,
Not guilty.

As to the rest
he justifies by
a distress for
damage fei-
fant.

Notice.

William Hall.

Overs

Owen against Hughes.

Declaration delivered against a prisoner in pursuance of 4 & 5 W. & M. c. 21. Pract. Reg. 231, 359, 366, 596, 602.

Midd, to wit. **E**dward O. Gent. complains of *Hugh H. Gent.* in the custody of the sheriff of the county of *Middlesex*, by virtue of a precept of the Lady the Queen, called a bill of *Middlesex*, issuing out of the court of the said Lady the Queen, for this, that he the said *Hugh* on the 24th day of *August* in the 12th year of the reign of the Lady *Anne*, now Queen of *Great Britain*, &c. with force and arms, &c. on him the said *Edward* at *Hampstead* in the county aforesaid did make an assault, and him the said *Edward* did then and there beat, wound and ill treat, so that his life was greatly despaired of; and other outrages on him then and there committed, against the peace of the said Lady the now Queen, and to the damage of him the said *Edward* 100*l.* And therefore he produces the suit, &c.

A. B. for the plaintiff.
The defendant in the custody of the sheriff of the county aforesaid. } Pledges to prosecute, { *John Doe,*
and
Richard Roe.

In the Queen's Bench, { Between *E. O.* plaintiff,
and
H. H. defendant.

The affidavit of the delivery thereof.

H. P. of the parish of *Gent.* maketh oath, That he this deponent did deliver a copy of the declaration hereunto annexed to the turnkey of *Newgate* against the defendant *Hughes* in custody, on the four and twentieth day of *October* last past. And this deponent has since been informed by one of the keepers of the said prison, that he did the same day deliver the said declaration to the said defendant *Hughes*.

Examined with the oath filed 4 *November* 1713.

The rule to plead.

Wednesday in the feast of *St. Martin* to appear and plead peremptorily.
Enter'd.

Beacher against Perkins.

Declaration in C. B. for false imprisonment.

Suffex, to wit. **J**OHN Perkins late of *Horsbam* in the county aforesaid, yeoman, was attached to answer to *Robert Beacher* in a plea, why with force and arms on him the said *Robert Beacher* at *Horsbam* he made an assault, and beat, wounded, imprisoned and ill treated him, and him there in prison, without any reasonable cause, and against the law and custom of this kingdom of *England*, for a long time detained; whereby the said *Robert* expended and laid out, and was obliged and compelled to expend and lay out, several large sums of money for his deliverance from the imprisonment aforesaid; and other outrages committed on him, to the great damage of him the said *Robert*, and against the peace of the Lady the now Queen, &c. And whereon the said *Robert* by *T. W.* his attorney complains, that the said *John* on the 10th day of *January* in the 9th year of the reign of the Lady *Anne*, now Queen of *Great Britain*, &c. at *Horsbam* in the county aforesaid, with force and arms, to wit, with swords, staves and knives on him the said *Robert* at *Horsbam* aforesaid did make an assault, and him the said *Robert* did then and there beat, wound, imprison and ill treat, and him the said *Robert* there in prison, without any reasonable cause, and against the law and custom of this kingdom of *England*, a long time, to wit, for the space of 14 days from thence next ensuing did detain, until the same *Robert* expended and laid out, and was obliged and compelled to expend and lay out, several large sums of money for his deliverance from the arrest and imprisonment aforesaid; and other outrages, &c. to the great damage, &c. and against the peace, &c. whereby he says that he is prejudiced, and hath damage to the value of 100*l.* And therefore he produces the suit, &c.

And

And the said *John Perkins* by *Arthur Rowland* his attorney comes and defends the force and injury when, &c. and says, that he is not guilty of the trespass aforesaid, as the said *Robert Beecher* above against him complains: And of this he puts himself on the country: And the said *Robert* likewise: Therefore the sheriff is commanded, that he cause to come here 12, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.

AND the said *Thomas* says, that he by any thing before alledged ought not to be precluded from having his action aforesaid, because he says, that the house, garden and several closes aforesaid, and also the place in which the trespass aforesaid whereof he now complains was committed, are and at the time of that trespass committed were a house called *Colliers* with the garden thereto belonging, and two closes called *Colliers Closes*, containing by estimation two acres, lying in *Postlade* aforesaid, other than the said messuage called the *Charibouse* with the garden thereto belonging, and 20 acres of land and pasture with the appurtenances called the *Blackcroft*, and 10 acres of land called the *Whitcroft* with the appurtenances in *Postlade* aforesaid in the bar of the said *Abraham* above specified: And this he is ready to verify: Wherefore for that the said *Abraham* to the trespass aforesaid in the said house, garden, and several closes aforesaid assigned anew committed hath not above answer'd, the same *Thomas* prays judgment, and his damages by reason of that trespass, to be adjudged to him, &c.

And the said *Abraham* as to any trespass in the said house, garden and several closes by the said *Thomas Smith* assigned anew above supposed to be committed says, that he is not guilty thereof: And of this he puts himself on the country: And the said *Thomas* thereof likewise, &c. Therefore let a jury thereon come, &c.

Hill. 36 & 37 C. 2. Roll 1157. K. B.

Kent, to wit. A. B. lately in the county-court of C. D. Knt. sheriff of the county aforesaid, held at M. in the county aforesaid, complained against E. F. in a plea of trespass; which said plea, at the petition of the plaintiff, is removed hither this day, to wit, from the day of *Easter* in 15 days by the writ of the Lord the King of *recor-dari facias loquelam*, because the said defendant in his plea in that county-court hath pleaded freehold: And now on this day comes as well the said plaintiff by *John Lilly* his attorney, as the said defendant by *R. S.* his attorney: And upon this the same plaintiff by his attorney aforesaid complains, that (here insert your declaration.)

Darrell and Wither.

South' ton, to wit. N. Ichnolas Darrell, Esq; complains of William Wither, Matthew Pryor and James Pocock, being in the custody of the marshal of the way hay set out for tithe. *Marbalsea* of the Lord the King before the King himself, for this, that they the said William, &c. on the 2d day of *September* in the 25th year, &c. 100 loads of clover grafs hay of him the said *Nicholas* to the value of 50 l. being in cocks at K. in the county aforesaid, being for tithes, from the nine parts there divided and set out did then and there take and carry away, and other injuries to him then and there did, against the peace of the said Lord the now King, to the damage of the said *Nicholas* 100 l. And therefore he produces the suit, &c.

Leving and Good.

For breaking his closes, destroying his grafs with cattle, digging up and taking away his coals.

Warwick, to wit. **F** Francis Leving, Gent. complains of *S. G. M. B. T. B. D. W.* and *E. S.* the younger, being in the custody of the marshal of the *Marshalsey* of the Lord the King before the King himself, for this, that they the said *S. M. T. D.* and *E.* on the first day of *May* in the 32d year of the reign of the Lord *Charles* the Second, now King of *England*, &c. with force and arms, &c. the closes of him the said *Francis*, called *Mill-lane* and *Green-lane* in *Baddeley Enfor* in the county of *Warwick* aforesaid, did break and enter, and the grafs of him the said *Francis*, to the value of 60 s. in the closes aforesaid then growing with their cattle, to wit, horses, oxen, cows, hogs and sheep, did eat up, tread down and destroy, and also 300 cart loads of coals of him the said *F.* to the value of 100 l. then and there found did take and carry away; and also for this, that they the said *S. M. T. D.* and *E.* afterwards, to wit, the same day and year abovesaid with force and arms, &c. the closes aforesaid of him the said *Francis*, called *Mill-lane* and *Green-lane* in *Baddeley Enfor* aforesaid in the county aforesaid, did break and enter, and other grafs of him the said *Francis*, to the value of 40 s. then there growing, with their cattle, to wit, horses, oxen, cows, hogs and sheep, did eat up, tread down and destroy, and the soil of him the said *Francis*, to wit, six acres in the close aforesaid called *Green-lane* did dig up, and 40 cart loads of coals of him the said *Francis*, to the value of 120 l. from thence did dig out, take and carry away, and his soil in the closes aforesaid with carts and wains did subvert, and other injuries to him then and there did, against the peace of the said Lord the now King, and to the damage of him the said *Francis* 300 l. And therefore he produces the suit, &c.

As to part
Not guilty.

When, &c. And as to the force and arms, or any thing that is against the peace of the said Lord the now King, and also the whole trespass aforesaid in the declaration aforesaid above supposed to be done, except the breaking and entring of the close aforesaid, called *Green-lane* in the declaration aforesaid above mentioned, and the eating up, treading down and destroying of the grafs aforesaid there with their feet by walking, and with the several cattle aforesaid, and the subverting of the soil aforesaid in the same close with their carts and wains, say, that they are not guilty thereof: And of this they put themselves on the country: And the said *Francis* likewise, &c. And as to the breaking and entring of the close aforesaid, called *Green-lane*, in the declaration aforesaid above mentioned, and the eating up, treading down and destroying of the grafs there with their feet by walking, and with the several cattle aforesaid, and the subverting of the soil aforesaid in the same close with their carts and wains, the same *S. M. T. D.* and *E.* say, that the said *Francis* ought not to have or maintain his action aforesaid thereof against them, because they say, that in, by and thro' the close aforesaid, called *Green-lane*, in which, &c. there is, and at the said times when the trespass aforesaid is supposed to be committed in the same close, and likewise for time out of mind was, a certain common highway for all the subjects of the Lord the King, as well horse and foot, at all times of the year by that way with their carts and wains passing or willing to pass; wherefore the said *S. M. T. D.* being subjects of the Lord the King, in the close aforesaid called *Green-lane* in which, &c. at the said times when, &c. did enter, and there by that way walk and ride, and all manner of cattle, to wit, their horses, oxen, cows, hogs and sheep, and their several carts and wains drive in, by and thro' the close aforesaid in which, &c. by the way aforesaid, as they lawfully might, and by that means the grafs aforesaid in the same close growing in the way aforesaid they did with their feet by walking tread down and consume, and their horses and oxen drawing their carts and wains as aforesaid in their passage in, by and thro' that close, the said grafs hastily and by snatches, against the will of them the said *S. M. T. D.* did eat up, tread down, destroy and subvert, which is the same trespass as to the breaking and entring of the close aforesaid, called *Green-lane*, and the eating up, treading down and destroying the grafs aforesaid there with their feet by walking, with the several cattle aforesaid, and the subverting of the soil aforesaid there with their carts and wains whereof the said *Francis* above against them complains: And this they are ready to verify: Wherefore they pray judgment if the said *Francis* ought to have or maintain his action aforesaid thereof against them, &c.

Repl' de injuria sua propria.

And the said *Francis* says, that he by any thing by them the said *S. M. T. D.* above in pleading alledged ought not to be precluded from having his action aforesaid thereof against them, because he says, that they the said *S. M. T. D.* the day and year abovesaid in the declaration aforesaid above mentioned, of their own wrong with force and arms, &c. the close aforesaid of him the said *Francis*, called *Green-lane*, in the declaration aforesaid above mentioned, at *Baddeley Enfor* aforesaid in the county aforesaid, did break and enter, and the grafs of the said *Francis*, to the value of 40 s. there growing with their feet by walking did

did tread down and destroy, and also other grafs of him the said *Francis*, to the value of 60 s. in the same close then growing with their cattle, to wit, horses, oxen, cows and sheep, did eat up, tread down and destroy, and also other grafs of him the said *Francis*, to the value of 40 s. in the same close then growing with their other cattle, to wit, horses, oxen, cows, hogs and sheep, did eat up, tread down and destroy, and the soil of the same close with their carts and wains did subvert, in manner and form as he the said *Francis* above against them the said *S. M. &c.* thereof complains; without that, that there now is, and at the said times of the trespasss aforesaid, and likewise for time out of mind was, in the said close called *Green-lane* in the declaration aforesaid mentioned, a common highway for all the subjects of the said Lord the King, as well horse as foot, at all times of the year by that way with their carts and wains passing or willing to pass, in manner and form as they the said *S. M. &c.* have above thereof in pleading alledged: And this he is ready to verify: Wherefore for that the said *S. M. &c.* the breaking and entring of the said close called *Green-lane* in the declaration aforesaid mentioned, and the eating up, treading down and destroying of the grafs aforesaid there with their feet by walking, and with the several cattle aforesaid, and the subverting of the soil aforesaid with the carts and wains aforesaid above committed have acknowledged, the same *Francis* prays judgment, and his damages by reason of the trespasss aforesaid, to be adjudged to him, *&c.*

Traverse of the way.

And the said *S. M. T. D. and E.* as before say, that there now is, and at the said times of the trespasss aforesaid, and also for time out of mind was, in the said close called *Green-lane* in the declaration aforesaid above mentioned, a common highway for all the subjects of the said Lord the King, as well horse as foot, at all times of the year by that way with their carts and wains passing or willing to pass, in manner and form as they the said *S. M. &c.* have above thereof in pleading alledged: And of this they put themselves on the country: And the said *Francis* likewise, *&c.* Therefore as well to try that issue as the said other issue between the parties aforesaid above joined, let a jury thereon come before the Lord the King at *Westminster* on day next after and who neither, *&c.* to recognize, *&c.* because as well, *&c.* The same day is given to the parties aforesaid, *&c.*

Issue on the traverse.

Graham and Harrod.

Midd., to wit. **W**illiam *Graham* complains of *Randal Harrod*, being in the custody of the marshal of the *Marshalsea* of the Lord the King before the King himself, for this, that he the said *Randal* on the 10th day of *June* in the 31st year of the reign of the Lord *Charles* the Second, now King of *England*, with force and arms, *&c.* the house of him the said *William*, at the parish of *Islington* in the county of *Middlesex*, did break and enter, and also the close of him the said *William*, called *Rosemary Branch*, at *Islington* aforesaid in the county aforesaid, did likewise break and enter, and the grafs in the close aforesaid growing, and being then and there with his cattle, to wit, horses, oxen, cows, hogs and sheep, did eat up, tread down and destroy, the trespasss aforesaid as to the eating up, treading down and destroying of the grafs aforesaid, with the cattle aforesaid, from the said 10th day of *June* in the year aforesaid, at sundry days and times continuing, and other outrages on him then and there committed, against the peace of the said Lord the King, and to the damage of him the said *William Graham* 20 l. And therefore he produces the suit, *&c.*

For breaking and entring the plaintiff's house and close, &c.

And the said *Randal* by *J. L.* his attorney comes and defends the force and injury when, *&c.* and as to the force and arms, or any thing that is against the peace of the said Lord the now King, and likewise the whole trespasss aforesaid, except the entring into the house aforesaid, the breaking and entring of the close aforesaid, called *Rosemary Branch*, and the eating up, treading down and destroying of the grafs of him the said *William* there with the cattle aforesaid, the same *Randal* says, that he is not guilty thereof: And of this he puts himself on the country: And the said *William* thereof likewise, *&c.* And as to the entring of the house aforesaid the same *Randal* says, that the said *William* ought not to have or maintain his action aforesaid thereof against him, because he says, that the house of the said *W.* at the said time when, *&c.* and long before and continually afterwards hitherto was a common victualling house, wherefore the said *R.* at the said time when, *&c.* into the house aforesaid did enter, the door of the said house being then open, to buy and drink beer, and beer then in the same house of the said plaintiff did buy, and then in the same house did pay the plaintiff for it, and a pot of beer did drink, as he lawfully might; which said entring of the house aforesaid is the same breaking and entring of the house aforesaid whereof the said *William* above complains: And as to the breaking and entring of the close aforesaid of him the

As to part Not guilty.

As to the entring of the house, that it was a common alehouse, &c.

As to the residue satisfaction made.

the said *William*, called *Rosemary Branch*, and the eating up, treading down and destroying of the grafs of him the said *William* there with the cattle aforesaid, the same *Randal* says, that the said *William* ought not to have or maintain his action aforesaid thereof against him, because he says, that after the trespass aforesaid committed, and long before the exhibition of the bill aforesaid of him the said *William* against the said *Randal* in the court here, to wit, on the 22d day of *January* in the 31st year of the reign of the said Lord the now King, he the said *Randal*, at *Islington* aforesaid in the county aforesaid, gave and paid to the said plaintiff one shilling in full satisfaction of the trespass aforesaid in the close aforesaid with the cattle aforesaid committed; which said one shilling the said plaintiff of the said defendant then and there received: And this he is ready to verify: Wherefore he prays judgment, &c.

Berkley and Man.

Declaration by an infant for a battery on his servant.

The city of *Bristol*, to wit. *George Berkley*, Esq; who is under the age of 21 years, to wit, of the age of 17 years, by *Henry Symes*, Esq; his prochein amy, complains of *Robert Man* in the custody of the marshal, &c. for this, that he on the first day of *November* in the 32d year of the reign of the Lord *Charles* the Second, now King of *England*, &c. with force and arms, &c. on one *Richard Lawford*, then and yet being the servant of him the said *George*, at the city of *Bristol* in the county of the same city, did make an assault, and him the said *Richard* did then and there beat, wound and maltreat, so that his life was despaired of, whereby the same *George* the whole service of the said *Richard* his servant aforesaid then and for the space of one month from thence ensuing intirely lost, and was deprived of; whereby the same *George* says that he is prejudiced, and hath damage to the value of 20*l*. And therefore he produces the suit, &c.

Not guilty.

Newton against Creswick.

For cutting down his trees and taking away six loads of wood.

Gloucester, to wit. *JOHN Newton*, Bart. complains of *Francis Creswick*, Esq; *William Gay*, *John Mayo* and *William Bigg*, being in the custody of the marshal of the *Marshalsea* of the Lord the King before the King himself, for this, that they on the 6th day of *April* in the 33d year of the reign of the Lord *Charles* the Second, now King of *England*, &c. with force and arms, &c. the close of him the said *John*, called the *Lane*, at *Hannam* in the parish of *Bitton* in the county aforesaid, did break and enter, and fix trees of him the said *John*, to the value of 6*l*. of lawful money of *England*, in the said close of him the said *John* growing, did cut down, lop, take and carry away, and also fix cart loads of wood of him the said *John*, to the value of 5*l*. at the parish of *Bitton* aforesaid in the county aforesaid did take, carry away, and to their own proper use convert, and other outrages on him did then and there commit, against the peace of the said Lord the now King, and to the damage of him the said *John* 20*l*. And therefore he produces the suit, &c.

As to part Not guilty.

When, &c. and as to the force and arms, or any thing that is against the peace of the said Lord the now King, and also the whole trespass aforesaid, except the breaking and entering of the close aforesaid, and the cutting down, lopping, taking and carrying away of the trees aforesaid, say, that they are not guilty thereof: And of this they put themselves on the country: And the said *John Newton* likewise, &c. And as to the breaking and entering of the close aforesaid, and cutting down, lopping, taking and carrying away of the trees aforesaid, the said *Francis* and *William Gay*, *John Mayo* and *William Biggs* say, that the said *John Newton* ought not to have or maintain his action aforesaid thereof against them, because they say, that the close aforesaid in which that trespass is supposed to be committed contains in itself 50 acres of pasture with the appurtenances; which said 50 acres of pasture with the appurtenances are, and at the said time when, &c. were the soil and freehold of the said *Francis Creswick*; wherefore the said *Francis Creswick* in his own right, and the said *William Gay*, *John Mayo* and *William Biggs*, as servants of him the said *Francis*, and by his command, at the said time when, &c. the close aforesaid, as the close and soil and freehold of the said *Francis*, broke and entred, and the trees aforesaid in the declaration aforesaid above specified in the said close then growing cut down, lopped, took and carried away, as they lawfully might: And this they are ready to verify: Wherefore they pray judgment if the said *John Newton* ought to have or maintain his action aforesaid thereof against them, &c.

As to the rest they justify as their freehold.

And

And the said *John Newton* says, that he by any thing by the said *Francis, William Gay*, Repl^t that it is the plain-
John Mayo and *William Biggs*, above in pleading alledged, ought to be precluded from tiff's freehold.
 having his action aforesaid thereof against them, because he says, that the said place in which, &c. the trespass aforesaid above was committed, at the said time when the same trespass was committed, was the soil and freehold of the said *John Newton*; without that, Traverse.
 that the said place in which, &c. at the said time when, &c. was the soil and freehold of the said *Francis Creswick*, as they the said *Francis, William, John Mayo* and *William* have above in pleading alledged: And this he is ready to verify: Wherefore he prays judgment, and his damages by reason of that trespass, to be adjudged to him, &c.

And the said *Francis, William, John Mayo* and *William* as before say, that the place in Issue on the
 which, &c. at the said time when, &c. was the soil and freehold of him the said *Francis*, in traverse.
 manner and form as they the said *Francis, William, John Mayo* and *William* have above thereof in pleading alledged: And of this they put themselves on the country: And the said *John Newton* likewise, &c. Therefore as well to try that issue as the said other issue between the parties aforesaid above joined, let a jury thereon come before the Lord the King at *Westminster* on day next after and who neither, &c. to recognize, &c. because as well, &c. The same day is given to the parties aforesaid there, &c.

Palmer against Trevor.

Easter 33 C. 2.

London, to wit. *JOHN Trevor* late of *Glyne* in the county of *Sussex*, Esq; was attached to For detaining
 answer to *William Palmer*, Esq; in a plea, why whereas *Elizabeth*, the plaintiff's wife.
 wife of him the said *William Palmer*, from the family and company of him the said *William*, without any cause, and against the will of him the said *William*, had departed, and had absented herself from the said *William*: And whereas the said *William* afterwards, to wit, on the first day of *January* in the 32d year of the reign of the Lord the now King, at *London*, to wit, in the parish of *St. Mary le Bow* in the ward of *Cheape*, had found the said *Elizabeth* in the family of the said *John Trevor*, and then and there required the said *John* to deliver to the same *William* the wife of him the said *William*, and the same *William* his wife aforesaid then and there endeavoured, and would have taken and carried away, the said *John* not only refused to deliver to the same *William* the wife of him the said *William*, and would not permit him the said *William* to take and carry away his wife, but also the said *John* with force and arms, &c. there the wife of him the said *William* aforesaid then and always after hitherto hath detained and kept, whereby the same *William* the comfort and company of his wife aforesaid for all the said time hath lost and been deprived of; and other outrages, &c.

London, to wit. *JOHN Trevor* late of *Glyne* in the county of *Sussex*, Esq; was attached to For taking
 answer to *William Palmer*, Esq; in a plea, why with force and arms, &c. away the
Elizabeth, then and yet the wife of him the said *William*, with the goods and chattels of plaintiff's wife
 him the said *William*, to the value of 500 l. at *London*, he took and carried away, and those with his
 goods and chattels from the same *William* doth yet detain, whereby the said *William* the goods.
 comfort, company and assistance of the said *Elizabeth*, and the use of his goods aforesaid, hath lost and been deprived of, and other outrages did him, to the great damage of him the said *William*, and against the peace of the Lord the now King, &c. And whereon the same *William* by *Gervase Gill* his attorney complains, that the said *John* on the first day of *January* in the 32d year of the reign of the said Lord the now King, the said *Elizabeth*, then and yet the wife of him the said *W.* with the goods and chattels, to wit, 150 pearls and 20 diamonds of him the said *William*, to the value, &c. at *London* aforesaid, to wit, in the parish of *St. Mary le Bow* in the ward of *Cheape*, did take and carry away, and those goods and chattels from the same *William* doth yet detain, whereby the same *William* the comfort, company and assistance of the said *Elizabeth*, and the use of his goods aforesaid, hath lost and been deprived of, and other outrages, &c. to the great damages, &c. and against the peace, &c. whereby he says that he is prejudiced, and hath damage to the value of 5000 l. And therefore he produces the suit, &c.

Smith against England and others.

H. 34 C. 2.

Trespafs for taking cattle.

York, to wit. **G**eorge England late of the castle of York, yeoman, Henry England late of the castle of York in the county of York, yeoman, and Anthony Becket late of Doncaster in the county of York, yeoman, were attached to answer to Samuel Smith, Gent. in a plea, why with force and arms the cattle of him the said Samuel of the price of 30*l.* found at Barnesly they took and carried away, and other outrages on him committed, to the great damages of him the said Samuel, and against the peace of the said Lord the now King, &c. Whereon the said Samuel Smith by James Donford his attorney complains, that the said George, Henry and Anthony on the first day of October in the 33d year of the reign of the Lord Charles the Second, now King of England, &c. the cattle of him the said Samuel, to wit, two horses and two mares of the price, &c. found at Barnesly aforesaid, took and carried away; and other outrages, &c. to the great damages, &c. and against the peace, &c. whereby he says that he is prejudiced, and hath damage to the value of 40*l.* And therefore he produces the suit, &c.

As to the force and arms, Not guilty.

As to the residue,

That the plaintiff was indebted to 7*s.* Plaintiff levied in a wapentage.

Plaintiff summoned.

The defendant declar'd there.

Judgment.

And the said George, Henry and Anthony, by J. L. their attorney come and defend the force and injury when, &c. and as to the force and arms, or any thing that is against the peace of the said Lord the now King, and the whole trespafs aforesaid in the declaration aforesaid above mentioned, except the taking and carrying away of one horse and one mare of him the said Samuel in the declaration aforesaid above mentioned, the same George, Henry and Anthony say, that they are not guilty thereof: And of this they put themselves on the country: And the said Samuel thereof likewise: And as to the residue of the trespafs aforesaid above supposed to be done, the said George, Henry and Anthony say, that the said Samuel ought not to have or maintain his action aforesaid thereof against them, because they say, that before the time of the trespafs aforesaid above supposed to be done, to wit, on the first day of June in the 31st year of the reign of the said Lord the now King, at Doncaster in the county of York, and within the jurisdiction of the court of the wapentage of *Strafforth*, otherwise *Strafford*, he the said Samuel was indebted to the said George and Henry in 26*s.* 6*d.* for lime by them the said George and Henry before then there sold and delivered to the said Samuel; and whereas there now is, and for time immemorial hath been, a certain court of the wapentage of *Strafforth*, otherwise *Strafford*, held at the wapentage aforesaid, and within the jurisdiction of the same court before the sheriff of the county of York for the time being, according to the custom of the same court: And whereas for the recovery of the debt aforesaid to them the said George and Henry so as aforesaid due, they the said George and Henry afterwards, to wit, at the court of the wapentage of *Strafforth*, otherwise *Strafford*, in the county of York aforesaid, held within the wapentage aforesaid, and within the jurisdiction of the same court, on the 25th day of November in the year of the Lord one thousand six hundred seventy-nine, did come into the same court in their proper persons, and did then and there levy a certain plaint against him the said Samuel in a plea of debt on a demand of 26*s.* 6*d.* and did then and there pray process to be thereon made against him the said Samuel; whereupon the same court did then and there command the bailiff of the wapentage aforesaid, that he should summon by good summoners the said Samuel, if he was found within the jurisdiction of the said court, so that he should be at the next court of the wapentage of *Strafforth*, otherwise *Strafford*, and within the jurisdiction of the same court, 16th day of December then next ensuing, to answer to the said George and Henry in the plea of his plaint aforesaid; whereupon at the next court of the wapentage of *Strafforth*, otherwise *Strafford*, held on the said 16th day of December within the wapentage aforesaid, and within the jurisdiction of the same court, the said George and Henry did come by John Arbur their attorney; and the said Samuel being solemnly called did not come; whereupon they the said George and Henry did then and there in the same court declare against the said Samuel for the said 26*s.* 6*d.* in the plea of their plaint aforesaid; upon which said declaration in the same court it was in such manner proceeded, that afterwards, to wit, at the next court of the wapentage of *Strafforth*, otherwise *Strafford* aforesaid, held within the wapentage aforesaid, and within the jurisdiction of the same court, on the 16th day of January then next following, that by the default of him the said Samuel it was then and there considered by the same court, that the said G. and H. should recover against the said S. his debt aforesaid, and also 16*s.* for his damages which he had sustained, as well by reason of the detention of that debt, as for his costs and charges by him about his suit in that behalf expended; upon which said judgment afterwards, to wit, on the 26th day of Jan. then next ensuing, the steward of the same court commanded the

bailiff of the wapentage aforesaid, and *George Cowling* his lawful deputy, and each of them, Execution a-
that they, or either of them, should levy of the goods and chattels of the said *Samuel* warded.
within the wapentage aforesaid, as well a certain debt of 26 s. 6 d. which the said *George*
and *Henry* had in the same court recovered against him, as also 16 s. for his damages and
costs to the same *George* and *Henry* in the same court adjudged, and that they, or one of
them, should be at the next court of the wapentage of *Strafforb*, otherwise *Strafford* afore-
said, to be held within the wapentage aforesaid, and within the jurisdiction of the court
aforesaid, on *Tuesday* the 17th day of *February* then next ensuing, there to return what they,
or either of them, should do in the premises: By virtue of which said precept, he the
said *Anthony Beckett*, then and yet bailiff of the wapentage of *Strafforb*, otherwise *Strafford*
aforesaid, afterwards and before the return of the precept aforesaid, to wit, on the 10th day
of *February* in the year of the Lord 1679 aforesaid, within the wapentage aforesaid, and
the jurisdiction of the court aforesaid, did take the said one horse and one mare of the said
two horses and two mares in the declaration aforesaid above mentioned in execution, to
satisfy the same *George* and *Henry* for his debt and damages aforesaid; which said horse and Sale of the
mare the same *Anthony* afterwards, to wit, on the 12th day of *February* in the year of the goods.
Lord 1679, sold for 50 s. and no more, and 42 s. 6 d. thereof the said *Anthony* at the said
next court of the wapentage of *Strafforb*, otherwise *Strafford* aforesaid, held on the said
17th day of *February* in the year of the Lord 1679 aforesaid, at *Doncaster* aforesaid in the
county aforesaid, and within the jurisdiction of the same court, to the same *George* and
Henry in full satisfaction of their debt and damages aforesaid paid; and 7 s. 6 d. the residue Tender of the
thereof, then and there offered to pay to him the said *Samuel*, but the said *Samuel* abso- overplus.
lutely refused to receive the same; and the said *Anthony* always afterwards hitherto was
ready, and yet is ready, and produces here in court the said 7 s. 6 d. ready to be paid to
the said *Samuel*, which is the same residue of the trespass aforesaid whereof the said *Samuel*
against the same *George*, *Henry* and *Anthony* above complains: And this the said *George*,
Henry and *Anthony* are ready to verify: Wherefore they pray judgment if the said *Samuel*
ought to have or maintain his action aforesaid thereof against them, &c.

Hen. Pollexfen.

And the said *Samuel* hath received out of the court here the said 7 s. 6 d. therefore the Plaintiff re-
said *Anthony* from those 7 s. 6 d. may be quit; and the same *Samuel*, as to the said plea ceives the
of them the said *George*, *Henry* and *Anthony*, as to the taking and carrying away of the said overplus, and
one horse and one mare of him the said *Samuel* in the declaration aforesaid above men- replicas de in-
tioned says, that he by any thing by the said *George*, *Henry* and *Anthony* above in pleading jura sua pro-
alleged, ought not to be precluded from having his action aforesaid thereof against them,
because he says, that they the same *George*, *Henry* and *Anthony*, the day and year in the
declaration aforesaid above mentioned, with force and arms, &c. of their own wrong, with-
out the cause aforesaid, by them the said *George*, *Henry* and *Anthony* above in pleading
alleged, the said one horse and one mare, at *Barnesly* aforesaid found, did take and carry
away, in manner and form as the same *Samuel* above against them thereof complains: And
this he prays may be inquired of by the country: And the said *George*, *Henry* and *Anthony*
likewise, &c. Therefore to try as well that issue as the said other issue between the parties
aforesaid above joined, the sheriff is commanded, that he cause to come before the said
Lord the King on the Octave of the Purification of the Blessed Virgin *Mary* wheresoever,
&c. 12, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well,
&c. The same day is given to the parties aforesaid, &c.

Winter

Winter against Camborne.

For hunting
in the plain-
tiff's closes.

Gloucester, to wit. **J**OHN Winter, Esq; complains of *John Camborne* in the custody of the marshal, &c. for this, that he the said *John Camborne* on the first day of *October* in the 33d year of the reign of the Lord *Charles* the Second, now King of *England*, &c. with force and arms, &c. the closes of him the said *John Winter*, at the parish of *Dixham* in the county aforesaid, with greyhounds and coursers broke and entred, and the grafs of him the said *John Winter* in the closes aforesaid then and there growing with their feet by walking, and with the feet of the dogs aforesaid by hunting, did spoil and destroy, to the damage of him the said *John Winter* 10 l. And therefore he produces the suit, &c.

Hafell and Spore.

For destroy-
ing and eating
the plaintiff's
wheat, barley,
&c.

Somerset, to wit. **W**illiam Hafell complains of *William Spore* the younger in the custody of the marshal, &c. for this, that he on the first day of *March* in the first year of the reign of the Lord *James* the Second, now King of *England*, &c. with force and arms, &c. the closes of him the said *William Hafell*, called *Portbury-field*, and the *Tynning* in *St. Georges* in the parish of *Portbury* in the county aforesaid, did break and enter, and the grafs of him the said *William Hafell* in the closes aforesaid then growing with their feet by walking did tread down and destroy, and also other grafs and the corn of him the said *William Hafell*, to wit, wheat, rye, barley, pease and oats, in the closes aforesaid then and there likewise growing, with certain cattle, to wit, horses, oxen, cows, heifers, hogs and sheep, did eat up, tread down and destroy, the trespass aforesaid, as to the eating up, treading down and destroying of the grafs and corn aforesaid, with the cattle aforesaid, from the said first day of *March* in the first year aforesaid until the day of the exhibition of this bill at sundry days and times continuing, and other outrages on him then and there committed, against the peace of the said Lord the now King, and to the damage of the said *William Hafell* 30 l. And therefore he produces the suit, &c.

As to part,
Not guilty.

And the said *William Spore* by *Thomas Edwards* his attorney comes and defends the force and injury when, &c. and as to the force and arms, and whatever is against the peace of the said Lord the now King, and also the whole trespass aforesaid in the declaration aforesaid mentioned, except the entring into the closes aforesaid, and the treading down and destroying the grafs in the same growing with his feet by walking, and also the eating up, treading down and destroying the grafs there growing, with cattle, from the time of mowing or reaping, and likewise the carrying away of corn in a certain great field, called *Portbury-field* in the county aforesaid, whereof the said closes in which, &c. are, and for all the time aforesaid, and also for time immemorial were, parcel, until the reflowing thereof with grain, says, that he is not guilty thereof: And of this he puts himself on the country:

And as to the
residue, that
he was seised
of a messuage,
&c. and so
prescribes for
common for
his cattle le-
vant and
couchant.

And the said *William Hafell* thereof likewise, &c. And as to the entring of the closes aforesaid, and treading down and destroying the grafs in the same growing with his feet by walking, and also the eating up, treading down and destroying the grafs there growing, with the cattle aforesaid, from the time of mowing or reaping, and likewise the carrying away of corn in the said great field, called *Portbury-field* in *Portbury* aforesaid, whereof the said closes in which, &c. are, and for all the time aforesaid, and also for time immemorial were, parcel, until the reflowing thereof with grain above supposed to be committed, the same *William Spore* says, that the said *W. Hafell* ought not to have or maintain his action aforesaid thereof against him, because he says, that long before the said time when, &c. and also for the whole time when, &c. he the said *William Spore* was seised and yet is seised of and in one messuage and 60 acres of land, 20 acres of meadow and 20 acres of pasture to the same messuage belonging, in *Portbury* aforesaid in the county aforesaid, in his demesne as of fee; and that he the said *William Spore*, and all they whose estate the same *William Spore* then had and now hath of and in the said messuage, 60 acres of land, 20 acres of meadow and 20 acres of pasture with the appurtenances for time immemorial have had, and been accustomed to have, for themselves, their tenants and farmers, of the said messuage, 60 acres of land, 20 acres of meadow and 20 acres of pasture with the appurtenances, common of pasture in all the said great field, called *Portbury field*, whereof the closes aforesaid in which, &c. are, and for all the time aforesaid were, parcel, for all their commonable cattle upon the said messuage, 60 acres of land, 20 acres of meadow and

20 acres of pasture with the appurtenances levant and couchant, as to the said messuage, 60 acres of land, 20 acres of meadow and 20 acres of pasture with the appurtenances belonging and appertaining, after the mowing or reaping and carrying away of the corn in that field, called *Portbury-field*, whereof the closes aforesaid are parcel, until that field, or some part thereof, should be re-sown with some corn; and the said *William Spoor* being so thereof seised, on the 10th day of *December* in the first year of the reign of the Lord *James* the Second, now King of *England*, &c. the corn on the field aforesaid, called *Portbury-field*, before growing was then reaped and carried away; and afterwards, to wit, the same day and year, he the said *William Spoor* did put his cattle aforesaid, then upon the premises aforesaid levant and couchant, into the said closes in which, &c. being parcel of the said field, called *Portbury-field* in *Portbury* aforesaid in the county aforesaid, to eat up the grafs there growing, and to use his common aforesaid there until the re-sowing thereof; and the same *William Spoor* on that account the grafs aforesaid in the said closes in which, &c. then growing with his feet by walking did tread down and destroy, and with the cattle aforesaid on the premises aforesaid levant and couchant did eat up, tread down and destroy, as he lawfully might, which is the same residue of the trespass aforesaid whereof the said *William Hasell* above now complains; without that, that the said *William Spoor* is guilty of any trespass in the said closes in which, &c. or in any of them, with his feet by walking, with the cattle aforesaid, by eating up, treading down and destroying at any time after the field aforesaid, called *Portbury-field*, or any part thereof, in any year was sown with corn, and before the corn in the same year in that field was mowed, reaped and carried away: And this he is ready to verify: Wherefore he prays judgment if the said *William Hasell* ought to have or maintain his action aforesaid thereof against him.

And the said *William Hasell* says, that he by any thing by the said *William Spoor* above Repl' de in- in pleading alledged, ought not to be precluded from having his action aforesaid thereof *juris sua pro-* against him, because he says, that the said *William Spoor* the day and year abovesaid in the declaration aforesaid mentioned, of his own wrong did enter into the closes in the declaration aforesaid mentioned, and the grafs there growing, with the cattle aforesaid, did eat up, tread down and destroy, for all the time aforesaid in the declaration aforesaid mentioned, as the said *William Hasell* above against him complains; without that, that the said *William Spoor*, and all they whose estate the said *William Spoor* then had and now hath of and in the said messuage, 60 acres of land, 20 acres of meadow and 20 acres of pasture with the appurtenances, for time immemorial have had, and have been accustomed to have, for themselves, their tenants and farmers, of the said messuage with the appurtenances, common of pasture, in all the said great field, called *Portbury-field*, for all their commonable cattle, after the mowing, or reaping and carrying away of the corn in that field, until that field, or some part thereof, was re-sown with some grain, as the said *William Spoor* above thereof in pleading hath alledged: And this, &c. Wherefore, &c. Traverse of the prescrip- tion,

And the said *William Spoor* as before says, that he the same *William Spoor*, and all they whose estate the said *William Spoor* then had and now hath of and in the said messuage, 60 acres of land, 20 acres of meadow and 20 acres of pasture with the appurtenances, for time immemorial have had, and have been accustomed to have, for themselves, their tenants and farmers, of the said messuage with the appurtenances, common of pasture, in all the said great field, called *Portbury-field*, for all their commonable cattle, after the mowing, or reaping and carrying away of the corn in that field, until that field, or some part thereof, was re-sown with some corn, as he the said *William Spoor* hath above in pleading alledged: And of this he puts himself on the country: And the said *William Hasell* thereof likewise, &c. Therefore as well to try that issue as the said former other issue between the parties aforesaid above joined, let a jury thereon come before the Lord the King at *Westminster* on *Wednesday* next after three weeks of the Holy *Trinity*; and who neither, &c. to recognize, &c. because as well, &c. The same day is given to the parties aforesaid there, &c. Issue on the traverse.

AND the said *William* says, that he by any thing by the said *Storer* above in pleading To son assault alledged ought not to be precluded from having his action aforesaid thereof against him, because he says, that before the said time when the trespass aforesaid in the declaration aforesaid mentioned was committed, and also at the said time when, &c. he the said *William* was a constable in and for the hundred of *Willingdon* in the county of *Sussex*: And farther the same *William* says, that before the said time when, &c. to wit, on the 28th day of *November* last past, one *E. Selwin*, Knt. then being one of the justices of the Lord the now King of the peace in and for the county of *Sussex* aforesaid, at *Eastdeane* aforesaid in the county aforesaid, made his warrant in writing under his hand and seal, directed to the constables and decenners of the hundred of *Willingdon* aforesaid, and every of them; by which said warrant the said To son assault pleaded, the plaintiff replies, that the assault was as constable in the execution of his office.

Edward Selwin did require, and in his majesty's name strictly command, the constables and decenners of the hundred aforesaid, and every of them, that immediately after the sight of the warrant aforesaid, they or some of them should attach the body of the said *Storer Bytewood*, by the name of *Storer Bytewood* of *Eastdeane* aforesaid, and him should bring, or some of them should bring, before the said *Edward Selwin* at his house at *Fiston* in the county aforesaid, to answer to such things and misdemeanors as on the behalf of his Majesty should be objected against him; which said warrant afterwards, to wit, on the first day of *December* last past to him the said *William*, at *Eastdeane* aforesaid in the hundred of *Willingdon* aforesaid in the county aforesaid, was delivered to be executed (he the said *William* being then and there one of the constables of the hundred of *Willingdon* aforesaid in the county aforesaid): By virtue of which said warrant, he the said *William* afterwards, to wit, the same day and year, at *Eastdeane* aforesaid in the hundred of *Willingdon* aforesaid in the county aforesaid, by virtue of the warrant aforesaid, the body of the said *Storer* did attach to carry before the said *Edward Selwin* at his house at *Fiston* aforesaid in the county aforesaid, to answer as the said warrant commanded and required, as he lawfully might; which is the same assault of him the said *William* on him the said *Storer*, which the same *Storer* in his plea aforesaid hath above pleaded: And this the same *William* is ready to verify: Wherefore he prays judgment, and his damages by reason of the trespass in his declaration aforesaid by him the said *Storer* on him the said *William* committed, to be adjudged to him, &c.

Berkley and Bathe.

For breaking The city of *Bristol*, to wit. **R** *Obert Berkley* complains of *William Bathe*, *Charles Browne*, *Henry Emlyn*, *Thomas Evans* and *Charles Emlyn*, in the custody of the marshal, &c. for this, that they the said *William*, *Charles Browne*, *Henry*, *Thomas* and *Charles Emlyn*, on the 18th day of *October* in the 4th year of the reign of the Lord *James* the Second, now King of *England*, &c. with force and arms, &c. the house of him the said *Robert* at did break and enter, and the door of the cellar of the house aforesaid of him the said *Robert*, to the value of 20 s. did break and spoil, and also the wall of the house aforesaid of him the said *Robert* did break and dig thro', and several pieces of timber in that wall did put and fix; and another wall of him the said *Robert*, inclosing part of the yard of the house of him the said *Robert* there situated, did break, and several beams thereon did put and fix, and on those beams a certain great edifice did build, and likewise 10000 tiles of him the said *Robert*, to the value of 10 l. from the tiling of the house aforesaid of him the said *Robert* did take, pull out, spoil and carry away, and one cart load of timber, part of the house aforesaid of him the said *Robert*, from that house did cut, take and carry away, and also four windows of him the said *Robert* in his house aforesaid, by the erection of a certain edifice near the house aforesaid of him the said *Robert* on the south part of that house by them then and there new built did stop up, whereby two rooms of him the said *Robert* in his house aforesaid were stopped up and darkened, and yet are stopped up and darkened, and become of none use, and other outrages then and there committed, against the peace of the said Lord the now King, and to the damage of him the said *Robert* 200 l. And therefore he produces the suit, &c.

Hen. Pollexfen.

Sander

*Sandes and Lloyd.**M. 36 C. 2. Roll 413.*

London, to wit. **R**ichard Lloyd late of London, Knt. was attached to answer to Thomas Sandes, merchant, in a plea, why with force and arms a certain ship in the custody of him the said Thomas Sandes, with which and divers goods and merchandizes of him the said Thomas Sandes, and several other merchants, his partners in the same ship, to be transported, the same Thomas Sandes was about to go to parts beyond the seas to merchandize with the goods and merchandizes afore said, and to make profit thereof to him the said Thomas Sandes for his part thereof, and to take of every of the said other merchants a certain salary to merchandize their part of the said goods and merchandizes, at London afore said found, did arrest, and that ship there under arrest, against the law and custom of this kingdom of England, did a long time detain; whereby the said Thomas Sandes the profit and advantage which he might have had and received from the goods and merchandizes afore said, by the merchandizing thereof as afore said, hath totally lost and been deprived of; and other outrages committed on him, to the great damage of him the said Thomas Sandes, and against the peace of the Lord the now King, &c. And whereon the said Thomas Sandes by Ralph Grange his attorney complains, that the said Richard Lloyd on the 14th day of December in the 34th year of the reign of the Lord the now King, with force and arms, &c. a certain ship called in the custody of him the said Thomas Sandes, with which and divers goods and merchandizes, to wit, 250 pigs of lead of him the said Thomas Sandes, and several other merchants, his partners in the same ship, to be transported, the same Thomas Sandes was about to go to parts beyond the seas, to wit, to the island of Maderas and other foreign parts, and to make profit thereof to him the said Thomas Sandes for his part, to wit, the 14th part thereof, and to take of every of the said other merchants a certain salary, to wit, the 20th part of their produce thereof to merchandize their part of the said goods and merchandizes, at London afore said in the parish of St. Mary le Bow in the ward of Cheape did arrest, and that ship there so under arrest, against the law and custom of this kingdom of England, for a long time, to wit, from the said 14th day of December in the 34th year above said until the first day of April in the 36th year of the reign of the said Lord the now King did detain, whereby the said Thomas Sandes the profit and advantage which he might have had and received from the goods and merchandizes afore said, by the merchandizing thereof as afore said, hath totally lost and been deprived of; and other outrages, &c. to the great damage, &c. and against the peace, &c. whereby he says that he is prejudiced, and hath damage to the value of 10000 l. And therefore he produces the suit, &c.

Lee and Scarmer.

North'ton, to wit. **W**illiam Lee, Gent. complains of William Scarmer and Francis Adams Assault, bat: in the custody of the marshal, &c. for this, that they on the 14th day of March in the fifth year of the reign of the Lord and Lady William and Mary, now King and Queen of England, &c. with force and arms, &c. on him the said William Lee, at Daventry in the county afore said, did make an assault, and him the said William Lee did then and there beat, wound and abuse, take and imprison, and him in prison there for a long time, to wit, for the space of 24 hours from thence next ensuing, without any reasonable and lawful cause, and against the law and custom of this kingdom of England, and until the said William Lee paid to them the said William Scarmer and Francis Adams a fine of 5 s. 6 d. to obtain his liberty, did detain, and other outrages on him then and there committed, against the peace of the said Lord and Lady the now King and Queen, and to the damage of the said William Lee 40 l. And therefore he produces the suit, &c.

When, &c. and as to the force and arms, and whatever that is against the peace of the said Lord and Lady the now King and Queen, and also the whole trespass afore said, except the assault afore said, and the detention of him the said William Lee for the space of half an hour until the same William Lee paid to the said William Scarmer the said 5 s. 6 d. say, that they are not guilty thereof: And of this they put themselves on the country: And

As to the residue they justify for a trespass by riding over the defendant's land, and refusing to make satisfaction.

And the said *W. Lee* likewise, &c. And as to the assault aforesaid, and the detention of the said *W. L.* for the space of half an hour until the said *W. L.* paid to the said *W. S.* the said 5 s. 6 d. the same *William* and *Francis* say, that the said *W. L.* ought not to have or maintain his action aforesaid thereof against them, because they say, that before the said time when, &c. and also at the said time when, &c. the said *W. S.* was and yet is lawfully possessed of and in a certain parcel of land, called *H.* in the parish of *H.* in the county aforesaid; and that the said *W. L.* being a person to the same *William* and *Francis* then altogether unknown, at the said time when, &c. parcel of the land of him the said *W. S.* aforesaid, of his own wrong, and without the licence and against the will of him the said *W. S.* with force and arms broke and entred, and the grafs there growing, with his cattle, to wit, with two horses, trod down and consumed, and was there with those cattle doing damage; whereupon the said *W. S.* then and there required and demanded of the same *W. L.* a recompence and satisfaction for that damage to his said parcel of land as aforesaid done, and that the said *W. L.* then and there absolutely refused to give or pay to the said *W. S.* any recompence or satisfaction, and then and there without any satisfaction for the damage aforesaid to the said *W. S.* made endeavourd to ride, and with the horses aforesaid to escape to places to the same *W. S.* unknown; wherefore the same *W. S.* and the said *Francis*, as his servant, then and there the horses aforesaid so as aforesaid doing damage distrained, with the intent to carry those horses to the next pound; and those horses, and the said *W. L.* riding upon one of the same horses, and being a person as aforesaid to the said *W. S.* and *Francis* intirely unknown, for the said space of half an hour, until the said *W. L.* voluntarily then and there paid 5 s. 6 d. for and in full satisfaction of the damage aforesaid by him the said *W. L.* and with his horses aforesaid to the said *W. S.* as aforesaid done, detained, as they lawfully might; which is the same trespass as to the assault aforesaid, and the detention of him the said *W. L.* for the space of half an hour, until the said *W. L.* paid the said *W. S.* the said 5 s. 6 d. whereof the said *W.* above complains; without that, that the said *W. S.* and *F.* are guilty of the assault aforesaid, and the detention of the said *W. L.* aforesaid, and the receipt of the money aforesaid, at *D.* aforesaid, or elsewhere, except in the said parcel of land of him the said *W. S.* and for the cause aforesaid, or in any other manner: And this they are ready to verify: Wherefore they pray judgment if the said *W. L.* ought to have or maintain his action aforesaid thereof against them, &c. with this, that the said *W. S.* and *Francis* will verify, that the said 5 s. 6 d. was a reasonable satisfaction for the damage aforesaid so as aforesaid done, &c.

Upon this plea there was a demurrer and joinder, and judgment was given for the plaintiff. The entry of which judgment is as followeth:

Continuance.

Venire awarded as well to try the issue as to inquire of the damages, &c.

Judgment for the plaintiff on the demurrer.

Nolle prosequi as to the issue.

But because the court of the said Lord and Lady the King and Queen now here are not yet advised to give their judgment of and upon the premisses whereof the parties aforesaid have above put themselves on the judgment of the court, day therefore is given to the parties aforesaid before the Lord and Lady the King and Queen at *Westminster* until, &c. to hear their judgment of and upon those premisses, because the court of the Lord and Lady the King and Queen now here thereof not yet, &c. And as well to try the issue aforesaid between the parties aforesaid above joined to be tried by the country, as to inquire what damages the said *W. L.* hath sustained by reason of the trespass aforesaid, whereof the parties aforesaid have above put themselves on the judgment of the court, if judgment should happen to be given thereon for the said *W. L.* against the said *W. S.* and *F.* let a jury thereon come before the Lord and Lady the King and Queen at *Westminster* on day next after and who neither, &c. to recognize, &c. because as well, &c. The same day is given to the parties aforesaid there, &c. On which day before the Lord and Lady the King and Queen at *Westminster* come the parties aforesaid by their attorneys aforesaid; whereupon all and singular the premisses being seen, and by the court of the said Lord and Lady the King and Queen now here more fully understood, and mature deliberation being thereon had, as to the said plea of them the said *W. S.* and *F.* as to the assault aforesaid, and the detention of him the said *W. L.* for the space of half an hour until the said *W. L.* paid the said *W. S.* 5 s. 6 d. it seems to the court of the said Lord and Lady the King and Queen now here, that that plea by the said *W. S.* and *F.* in manner and form aforesaid above pleaded, and the matter in the same contained, are not sufficient in law to preclude him the said *W. L.* from having his action aforesaid thereof against them the said *W. S.* and *F.* And as to try the issue aforesaid between the parties aforesaid above joined to be tried by the country, the sheriff of *North'ton* aforesaid hath not returned thereof the writ, nor done any thing therein; and upon this the same *W. L.* freely here in court confesses, that he will not farther prosecute against the said *W. S.* and *F.* upon the issue aforesaid between the parties aforesaid above joined, but doth absolutely disavow and refuse to farther prosecute of and upon the issue aforesaid against the said *W. S.* and *F.* Therefore the said *W. S.* and *F.* as to try the issue aforesaid above joined, may

may be thereof quit, &c. whereupon the said *W. L.* ought to recover his damages against the said *W. S.* and *F.* by reason of the premisses aforesaid, whereof the same *W. S.* and *F.* are above by the judgment of the court convicted: But because it is unknown to the court of the said Lord and Lady the King and Queen now here what, &c.

Peers and Lucy and others.

Warwick, to wit. **T** *Thomas Peers*, Esq; complains of *George Lucy*, Esq; *Edw. Lord*, *John For* fishing in *Waterman*, *John Dickins*, *John Hawkes* the younger and *Richard* his several *Perkins*, in the custody of the marshal, &c. for this, that they on the 17th day of *April* fishery. in the 6th year of the reign of the Lord and Lady *William* and *Mary*, now King and Queen of *England*, &c. with force and arms, &c. the close of him the said *T. P.* called *Cliffe Bank*, at the parish of *Alveston* in the county of *Warwick* aforesaid, did break and enter, and the grafs of him the said *T. P.* in the same close then growing, to the value of 40 s. with their feet by walking did tread down and consume; and likewise for this, that they afterwards, to wit, the same day and year aforesaid, at *D.* in the county aforesaid, and at divers other days and times between the said 17th day of *April* and the first day of *June* then next following, with force and arms, &c. in the several fishery of him the said *T. P.* in the river of *Avon* in the parish of *Alveston* aforesaid in the county aforesaid did fish, and fish from his fishery aforesaid, to wit, 10000 roaches, 10000 dace and 20000 gudgeons, to the value of 100 l. then and at the several times aforesaid there found did take and carry away, and other outrages on him did then and there commit, against the peace of the said Lord and Lady the now King and Queen, and to the damage of him the said *T. P.* 200 l. And therefore he produces the suit, &c.

By *Bryan*. Diversity between a several fishery and a free fishery. For no man can have a several piscary but in his own soil, and solely to himself. But I may grant a free fishery in my pond to several persons; which *Littleton* granted. *Micb. 17 Ed. 4. 6. b.* Sir *William Calthrop's* case. See *Upton* against *Dawkin* in the *Modern Reports*, *Hill. Jac. 2. K. B.* where a judgment was revers'd for a free fishery instead of a several fishery. 3 *Mod. Rep.* 97.

When, &c. and as to the force and arms, or any thing that is against the peace of the said Lord and Lady the now King and Queen, and also the whole trespass aforesaid, except the breaking and entry of the close aforesaid, and the treading down and consumption of the grafs aforesaid with their feet by walking in the declaration aforesaid above supposed to be committed, say, that they are not guilty thereof: And of this they put themselves on the country: And the said *T.* thereof likewise, &c. And as to the breaking and entry of the close aforesaid, and the treading down and consumption of the grafs aforesaid with their feet by walking, the same *G. E. J. J. J.* and *R.* say, that the said *T.* ought not to have or maintain his action aforesaid thereof against them, because they say, that long before the said time when that trespass is supposed to be committed, to wit, on the first day of *December* in the third year of the reign of the Lord *Edward* the Sixth, late King of *England*, &c. *John* Earl of *Warwick* was seised of and in the manor of *Bishop Hampton* with the appurtenances in the said county of *Warwick*, whereof one acre of land covered with water in the parish of *Alveston* aforesaid in the county aforesaid, next and contiguously adjoining to the said close in which the trespass aforesaid is supposed to be committed, is, and at the said time when, &c. and also for time immemorial was, parcel in his demesne as of fee; and that the said late King *Edward* the Sixth then was seised of and in the close aforesaid in which, &c. in his demesne as of fee in the right of his crown of *England*; and that the said Earl of the manor aforesaid with the appurtenances whereof, &c. so as aforesaid being seised, the same Earl, and all they whose estate the same Earl then had of and in the manor aforesaid with the appurtenances whereof, &c. have for time immemorial been used and accustomed to have the necessary easements following for the catching of the fish being in the water aforesaid, to wit, by themselves and their servants from time to time, and at all seasonable times of fishing in the water aforesaid, at their will, into the close aforesaid in which, &c. to enter, and the nets and other engines necessary for the catching of the fish being in that water there near the banks of the water aforesaid to open, and into the water aforesaid to throw, and in that water and out of that water to draw, for the necessary catching of the fish being in the water aforesaid; and the said late King *Edward* the Sixth of the said close in which, &c. so as aforesaid being seised, and the said Earl of *Warwick* of the said manor with the appurtenances whereof, &c. in form

As to part,
Not guilty.

As to the residue, that the Earl of *Warwick* was seised in fee of the manor of *H.* whereof one acre of land covered with water is parcel.

That *Ed. 6.* was seised of the close in which, &c.

Prescription to enter the close in which, &c. to fish.

The E. of W. granted the manor whereof, &c. to Edward the Sixth, who entred and died seised,

whereby the manor whereof, &c. and the close in which, &c. descended to Q. Mary, &c.

P. and M. granted the manor whereof, &c. with all ways, &c. to T. Lucy in fee.

T. L. entred and died seised.

Feoffment in fee.

Death of the seoffee.

His heir entred, and devised the manor whereof, &c. to J. M. &c. in fee.

aforsaid being seised, the same Earl afterwards and before the said time when, &c. to wit, on the 20th day of *December* in the 3d year of the reign of the said late King, at *Westminster* in the county of *Middlesex*, by his certain indenture made between him the said Earl of the one part, and the said late King of the other part, sealed with the seal of the said Earl, and remaining inrolled on record in the court of Chancery of the said Lord and Lady the now King and Queen, at *Westminster* in the county of *Middlesex* aforsaid, the date whereof is the same day and year, did grant to the said late King, among other things, the manor aforsaid with the appurtenances whereof, &c. To have and to hold that manor with the appurtenances whereof, &c. to the same late King, his heirs and successors for ever: By virtue whereof the said late King into the said manor with the appurtenances whereof, &c. entred, and was thereof seised in his demesne as of fee in the right of his crown of *England*; and the said late King *Edward* the Sixth being so thereof and of the said close in which, &c. seised, afterwards and long before the said time when, &c. at the parish of *Alveston* aforsaid died so thereof seised, by whose death the said manor with the appurtenances whereof, &c. and the close aforsaid in which, &c. descended to the Lady *Mary*, late Queen of *England*, &c. as sister and heir of the said late King *Edward* the Sixth, whereby the same late Queen *Mary* into the said manor with the appurtenances whereof, &c. and into the said close in which, &c. entred, and was thereof seised in her demesne as of fee in the right of her crown of *England*; and so being thereof seised, the same late Queen *Mary* long before the said time when, &c. at the parish of *Alveston* aforsaid, took to husband *Philip* then King of *Spain*, whereby the same *Philip*, as King of *England*, in the right of the said late Queen, and the same late Queen were seised of and in the manor aforsaid with the appurtenances whereof, &c. and the said close in which, &c. in their demesne as of fee in the right of their crown of *England*; and so being thereof seised, they the same late King *Philip* and the late Queen *Mary* afterwards and before the said time when, &c. to wit, on the 12th day of *June* in the 3d and 4th year of their reign, at *Westminster* aforsaid in the county of *Middlesex* aforsaid, by their letters patent sealed under the great seal of *England*, bearing date at *Westminster* aforsaid, the same day and year which the said defendants here in court produce, granted to one *T. Lucy*, Esq; among other things, the said manor with the appurtenances whereof, &c. and all and singular ways, commodities, emoluments and hereditaments, in the said parish of *Bishop Hampton* in the said county of *Warwick*, and elsewhere wheresoever in the same county, to the said manor of *Bishop Hampton* whereof, &c. or any parcel thereof, howsoever belonging or appertaining, or as member, part or parcel of the same manor whereof, &c. had, known, accepted, used, reputed, demised or occupied, or with the same, or any part thereof, used or enjoyed, as fully, freely and intirely, and in as ample manner and form as any person whatever then before ever had, held or enjoyed, or ought to have, hold or enjoy, the manor aforsaid with the appurtenances whereof, &c. To have and to hold to the said *T. L.* his heirs and assigns for ever: By virtue whereof the same *T. L.* into the said manor with the appurtenances whereof, &c. afterwards and long before the said time when, &c. entred, and was thereof seised in his demesne as of fee; and the said *T. L.* of the manor aforsaid with the appurtenances whereof, &c. being as aforsaid seised, the said *T.* afterwards and long before the said time when, &c. at the parish of *Alveston* aforsaid died so thereof seised, by whose death the manor aforsaid with the appurtenances whereof, &c. descended to one *R. L.* whereby the same *R.* afterwards and long before the said time when, &c. into the manor aforsaid with the appurtenances whereof, &c. entred, and was thereof seised in his demesne as of fee; and the same *R.* so of the manor aforsaid with the appurtenances whereof, &c. being seised, the same *R.* afterwards and long before the said time when, &c. at the parish of *Alveston* aforsaid died so thereof seised without issue male from his body issuing, by whose death the manor aforsaid with the appurtenances whereof, &c. descended to one *B. Lucy*, as only daughter and heir of the said *R. L.* whereby the same *B.* afterwards and long before the said time when, &c. into the manor aforsaid with the appurtenances whereof, &c. entred, and was thereof seised in her demesne as of fee; and the said *B.* so of the manor aforsaid with the appurtenances whereof, &c. being seised, the same *Bridget* afterwards and long before the said time when, &c. thereof enfeoffed one *R. L.* the uncle of her the said *B.* To have and to hold to the same *R.* his heirs and assigns for ever, whereby the same *R.* was seised of the manor aforsaid with the appurtenances whereof, &c. in his demesne as of fee; and the said *R. L.* being so thereof seised, the same *R.* afterwards and long before the said time, &c. at the parish of *A.* aforsaid died so thereof seised, by whose death the manor aforsaid with the appurtenances whereof, &c. descended to one *T. L.* Esq; as son and heir of the said *R. L.* whereby the same *T. L.* afterwards and long before the said time when, &c. into the manor aforsaid with the appurtenances whereof, &c. entred, and was thereof seised in his demesne as of fee; and the said *T. L.* being so thereof seised, the same *T. L.* afterwards and long before the said time when, &c. to wit, the day of in the year in due form of law made his last will and testament in writing, and by the same devised the manor aforsaid with the appurtenances whereof, &c. to *J. M. R. W.* and *E. W.* Gent. their heirs and assigns for ever; and afterwards and long before the said time when, &c. the same *T. L.* at the parish of *A.* aforsaid died so as aforsaid seised; after whose death and long before the said time when, &c. the said *J. M. R. W.* and *E. W.* by virtue of the devise aforsaid into the manor aforsaid with the appurtenances whereof, &c. entred, and were thereof seised in their demesne as of fee; and the said *J. M. R. W.* and *E. W.* being so thereof seised

seised, the same *J. M. R. W.* and *E. W.* afterwards and long before the said time when, *J. M. &c.* to wit, on the day of in the year thereof enfeofed one *D. L. Esq.* To have and to hold to the same *D.* his heirs and assigns for ever: By virtue whereof the same *D.* was seised of the manor aforesaid with the appurtenances whereof, *&c.* in his demesne as of fee; and the said *D.* being so thereof seised, the same *D.* afterwards and long before the said time when, *&c.* at the parish of *Alveston* aforesaid died so thereof seised without any issue of his body issuing, by whose death the manor aforesaid with the appurtenances whereof, *&c.* descended to the said *G. L.* as brother and heir to the said *D.* whereby the same *G.* afterwards and before the said time when, *&c.* into the manor aforesaid with the appurtenances whereof, *&c.* entred, and was and yet is thereof seised in his demesne as of fee; wherefore the same *G.* in his own right, and the said *G. E. J. J. J.* and *R.* as servants of the said *G.* and by his command, at the said time when, *&c.* being a seasonable time of fishing in the water aforesaid, into the said close in which, *&c.* near the bank of the water aforesaid entred, and there the nets of the said *G.* for the necessary catching of the fish being in that water opened, and into the water aforesaid threw, and in that water and out of that water drew, and thereby the grass aforesaid in the same close then growing with their feet by walking trod down and consumed, doing as little damage there as they could, as they lawfully might; which is the same breaking and entry of the close aforesaid in which, *&c.* and the treading down and consumption of the grass aforesaid there with their feet by walking, whereof the said *T. P.* above thereof against them complains: And this, *&c.*

Ed. Northey.

And the said *T.* as to the said plea of them the said *G. E. J. J. J.* and *R.* as to the breaking and entry of the close aforesaid, and the treading down and consumption of the grass aforesaid with their feet by walking, in manner and form above in pleading alledged, says, that he by any thing by the said *G. E. J. J. J.* and *R.* above by pleading alledged ought not to be precluded from having his action aforesaid thereof against them, because by protesting, that the said *G. L.* was not seised of the said one acre of land covered with water in the parish of *Alveston* aforesaid in the county aforesaid in his demesne as of fee; and protesting likewise, that the easement aforesaid in the plea aforesaid above mentioned is not a necessary easement for the catching of fish in the water aforesaid; for plea nevertheless the same *T.* says, that the plea aforesaid by the said *G. E. J. J. J.* and *R.* in manner and form aforesaid above pleaded, and the matter in the same contained, are not sufficient in law to preclude him the said *T.* from having his action aforesaid against them the said *G. E. J. J. J.* and *R.* and that he to that plea in manner and form aforesaid pleaded hath no necessity, nor is by the law of the land obliged in any manner to answer: And this he is ready to verify: Wherefore for want of a sufficient answer in this behalf the same *T.* prays judgment, and his damages by reason of that trespass, to be adjudged to him, *&c.*

N. Wright.

And the said *G. E. J. J. J.* and *R.* say, that the plea aforesaid as to the breaking and entry of the close aforesaid, and the treading down and consumption of the grass aforesaid with their feet by walking, by them the said *G. E. J. J. J.* and *R.* in manner and form aforesaid above in pleading alledged, and the matter in the same contained, are good and sufficient in law to preclude the said *T.* from having his action aforesaid against them the said *G. E. J. J. J.* and *R.* which said plea, and the matter in the same contained, the same *G. E. J. J. J.* and *R.* are ready to verify and prove, as the court, *&c.* And because the said *T.* to that plea doth not answer, nor hitherto in any wise deny it, the same *G. E. J. J. J.* and *R.* as before pray judgment, and that the said *T.* may be precluded from having his action aforesaid against them the said *G. E. J. J. J.* and *R.* *&c.* But because the court of the Lord and Lady the King and Queen now here are not yet advised to give their judgment of and upon the premisses, whereof the parties aforesaid have above put themselves on the judgment of the court, day therefore is given to the parties aforesaid before the Lord and Lady the King and Queen at *Westminster* until day next after to hear their judgment of and upon those premisses, because the court of the Lord and Lady the King and Queen now here thereof not yet, *&c.* And as well to try the issue aforesaid between the parties aforesaid above joined to be tried by the country, as to inquire what damages the same *T.* hath sustained by reason of the trespass aforesaid, whereof the parties aforesaid have above put themselves on the judgment of the court, if judgment happens to be thereon given for the said *T.* against them the said *G. E. J. J. J.* and *R.* let a jury thereon come before the Lord and Lady the King and Queen at *Westminster* on day next after and who neither, *&c.* to recognize, *&c.* because as well, *&c.* The same day is given to the parties aforesaid there, *&c.*

— and

— and —

In trespafs the defendant justifies for a way which he had and ought to have, and not by prescription.

Note; the action as to the cattle was laid with a continuance.

AND the said *William Smith* by *J. L.* his attorney comes and defends the force and injury when, &c. and as to the force and arms, or any thing that is against the peace of the said Lord the King, and likewise the whole trespafs aforesaid in the declaration aforesaid mentioned, except the entring of the close aforesaid of him the said *Thomas*, called *Millfield*, and the treading down and consumption of the grafs of him the said *Thomas* in the same close growing with his feet by walking, and the eating up, treading down and consumption of other grafs of him the said *Thomas* in the same close likewise growing, with the cattle aforesaid, and the tearing up the soil of him the said *Thomas* with the carts in the declaration aforesaid mentioned, the same *William* says, that he is not guilty thereof: And of this he puts himself on the country: And the said *Thomas* thereof likewise, &c. And as to the entring of the close aforesaid of him the said *Thomas*, called *Millfield*, and the treading down and consumption of the grafs of him the said *Thomas* in the same close growing with his feet by walking, and the eating up, treading down and consumption of other grafs of him the said *Thomas* in the same close likewise growing, with those cattle, and the tearing up the soil and ground of him the said *Thomas* in the same close with the carts above supposed to be done, the same *William* says, that the said *Thomas* ought not to have or maintain his action aforesaid thereof against him, because he says, that long before the trespafs aforesaid in the declaration aforesaid above supposed to be committed, and also for all the time aforesaid in the declaration aforesaid mentioned, he the said *William* was lawfully possessed of and in one close of meadow in C. aforesaid in the county aforesaid, containing three acres, which said close of meadow lies next and contiguous to the said close of him the said *Thomas*, called *Millfield*, in which, &c. and the same *William* at the said times when, &c. and long before had and ought to have for himself and his servants, at all times of the year at their will, a certain way, as well foot as horse, and to drive and drive back the cattle of him the said *William*, and to carry and carry back with his carts and carriages from the King's highway in C. aforesaid in the county aforesaid, called *Lilburn Road*, in, by and thro' the close aforesaid of him the said *Thomas*, called *Millfield*, in which, &c. to the said close of meadow of him the said *William*, and from the same close of meadow of him the said *William* by the same way back to the king's highway aforesaid; wherefore the same *W.* the day and year in the declaration aforesaid above first mentioned into the close aforesaid of him the said *Thomas*, called *Millfield*, in the parish and county aforesaid, from the king's highway aforesaid, called *Lilburn Road* aforesaid, by the way aforesaid entred, and in, by and thro' that close by the way aforesaid unto the said close of him the said *William* walked, and the cattle aforesaid, being the proper cattle of him the said *William*, then and at the several days and times for the time in the declaration aforesaid mentioned drove from the King's highway aforesaid, in, by and thro' the close aforesaid unto the said close of meadow of him the said *William*, and from the same close by the same way back to the King's highway aforesaid; and also the same *William* his carts aforesaid, being his own proper carts, with his horses aforesaid from the King's highway aforesaid, in, by and thro' the said close of him the said *Thomas* in which, &c. in that way unto the said close of him the said *William*, and from the same close of him the said *William* by the way aforesaid unto the King's highway aforesaid drew, using his way aforesaid, as he lawfully might; and by that means the grafs in the same close in the way aforesaid growing with his feet by walking trod down and consumed, and the cattle aforesaid, other grafs of him the said *Thomas* in the same close then likewise growing, in their passage in the way aforesaid, in, by and thro' the close aforesaid, suddenly and by snatches, against the will of him the said *William*, eat up, trod down and consumed, and the soil and ground aforesaid, with the carts aforesaid using the way aforesaid, tore up, doing the said *Thomas* as little damage as he could; which is the residue of the trespafs aforesaid as to the entring of the close aforesaid of him the said *Thomas*, called *Millfield*, and the treading down and consumption of the grafs of the said *Thomas* in the same close growing with his feet by walking, and the eating up, treading down and consumption of other grafs of him the said *Thomas* in the same close likewise growing, with the cattle aforesaid, and the tearing up of the soil and ground of him the said *Thomas* in the same close with carts, whereof the said *Thomas* above now complains: And this, &c. Wherefore, &c.

Webb against Hauson.

E. 8 W. 3.

London, to wit. **N**orton Hauson late of London, Gent. was attached to answer Needler For throwing Webb, Gent. in a plea, why with force and arms on him the said a wine glass Needler, at London in the parish of St. Mary le Bow in the ward of Cbeape, he made an in the plain- assault, and him beat, wounded and abused, so that his life was despaired of, and a wine tiff's face, and glass in and upon the face of him the said Needler there violently threw, and with the glass cutting his eye afore said by him the said Norton Hauson there thrown, him the said Needler in and upon and cheek. the left eye and in and upon the left cheek of him the said Needler grievously struck, cut and wounded, and other outrages on him committed, to the great damage of him the said Needler, and against the peace of the Lord the now King, &c. And whereon the said Needler by Thomas Kirwood his attorney complains, that the said Norton on the fifth day of December in the 7th year of the reign of the Lord the now King, with force and arms, to wit, with swords, staves and knives on him the said Needler, at London in the parish of St. Mary le Bow in the ward of Cbeape, made an assault, and him beat, wounded and abused, so that his life was despaired of, and a wine glass in and upon the face of him the said Needler then and there violently threw, and with the wine glass afore said by him the said Norton then and there thrown, him the said Needler in and upon the left eye and in and upon the left cheek of him the said Needler grievously struck, cut and wounded, and other outrages, &c. to the great damage, &c. and against the peace, &c. whereby he says that he is prejudiced, and hath damage to the value of 100*l.* And therefore he produces the suit, &c.

Henderson against Crofs and others.

H. 7 W. 3. Roll 364.

Midd', to wit. **T**homas Henderson complains of Robert Crofs, John Furbeck, &c. in the For breaking custody of the marshal, &c. for this, that they on the fourth day of the plaintiff's October in the year of the reign of the Lord and Lady William and Mary, now King house and and Queen of England, &c. with force and arms, &c. the house of him the said Thomas, taking away at the parish of St. Margaret Westminster in the county of Middlesex, did break and enter, 20 barrels of beer. and 20 barrels filled with strong beer, to the value of 40*l.* and 10 butts filled with strong ale, to the value of 50*l.* of him the said Thomas in the cellar of the same house of him the said Thomas then and there being found did then and there take and carry away, and to their own use convert and dispose, and other outrages, &c.

And now on this day, to wit, Wednesday next after the Octave of St. Hillary in this Imparlance. same term, until which day the said Robert Crofs, John Furbeck, &c. had leave to im- parl to the bill afore said, and then to answer, &c. before which day the said Lady Queen Mary departed this life, before the Lord the King at Westminster come as well the said Death of Q. Thomas Henderson by his attorney afore said, as the said Robert Crofs, John Furbeck, &c. M. by John Lilly their attorney; and the same Robert Crofs, John Furbeck, &c. defend the force and injury when, &c. and as to the force and arms, or any thing that is against As to part, the peace of the said Lord and Lady the King and Queen, and also the whole trespass Not guilty. afore said in the declaration afore said mentioned, except the entry into the house afore said of him the said Thomas Henderson in the declaration afore said mentioned, and the taking and carrying away of 15 barrels of beer, the same Robert, John, &c. say, that they are not guilty thereof: And of this they put themselves on the country: And the said Thomas thereof likewise, &c. And as to the said entry into the house afore said of him the said As to the re- Thomas in the declaration afore said mentioned, and the taking and carrying away the sidue they said 15 barrels of beer, the same Robert, John, &c. say, that the said Thomas ought not justify by a to have or maintain his action afore said thereof against them, because they say, that warrant on a before the said time when the trespass afore said is above supposed to be done, to wit, plaint in re- on the fifteenth day of September 1694, at the court of the dean and chapter of the plevin. collegiate church of St. Peter Westminster in the county afore said, and within the jurisdiction of

of the same court, according to the custom there for time immemorial, before *Charles Bonython*, Esq; the deputy of *James Duke of Ormond*, high steward of the same court, came one *Thomas Crofs* in his proper person, and there levied a certain plaint against the said *Thomas Henderson* in a plea of taking and unjust detention of the said 15 barrels of beer, being the goods and chattels of the said *Thomas Crofs*; and the same *Thomas Crofs* then and there found sufficient security, as well to prosecute his plaint as to return the said 15 barrels of beer, if a return thereof should be adjudged; and upon the plaint aforesaid the said court then and there commanded *Richard Knipe*, Esq; the bailiff of the court aforesaid, that he should cause the said 15 barrels of beer to be replevied or delivered to the said *Thomas Crofs*, and that he should put by surety and safe pledges the said *Thomas Henderson*, so that he should be at the next court of pleas of the said dean and chapter of the collegiate church, &c. on *Saturday* the 6th day of *October* then next ensuing, at the town-court house in *Westminster* aforesaid, to answer to the said *Thomas Crofs* in the plea of taking and unjust detention of the goods aforesaid, and that the same bailiff should have there then that precept; which said precept afterwards and before the return thereof, to wit, on the said 4th day of *October* in the declaration aforesaid mentioned, at the parish of *St. Margaret Westminster* aforesaid in the county aforesaid, and within the jurisdiction of the court aforesaid, was delivered to the said *Richard Knipe* in due form of law to be executed: By virtue of which said precept so as aforesaid directed, the said *John Furbeck*, as servant of the said *Richard Knipe*, and by his command, and the said *Robert Crofs*, *John Fish*, &c. in aid of the said *John Furbeck*, and by his command, before the return of the precept aforesaid, to wit, on the day and year aforesaid in the declaration aforesaid mentioned, into the house aforesaid of him the said *Thomas Henderson*, at the parish of *St. Margaret Westminster* aforesaid in the county aforesaid, and within the jurisdiction of the court aforesaid, the doors of the same house being then and there open, peaceably and quietly entred, and the said 15 barrels of beer of him the said *Thomas Crofs*, then being in that house, then and there to the said *Thomas Crofs* caused to be replevied and delivered, according to the form and effect of the precept aforesaid, as they lawfully might; which is the same entry into the house aforesaid, and the taking and carrying away of the said 15 barrels of beer, whereof the said *Thomas Henderson* above now complains.

This was held to be bad, because *Knipe* himself ought to have executed the warrant, and not his deputy or servant.

Preston and Hoskins.

Trespafs for the mean profits by the plaintiff in ejectment in K. B. Pract. Reg. 496, 504, 602.

Hertford, to wit. **E**dward Hoskins late of *Cbesbunt* in the county aforesaid, yeoman, was attached to answer to *John Preston* in a plea, why with force and arms the close and house, &c. of him the said *John* at *Cbesbunt* aforesaid he broke and entred, and him from the use, possession, occupation and benefit of the said close, house, &c. for a long time hindred and kept out, whereby the same *John* the profit and benefit of the said close, house, &c. for all the said time lost and was deprived of, and other outrages on him committed, to the great damage of him the said *John*, and against the peace of the Lady the late Queen and of the Lord the now King, &c. And whereon the same *John* by *John Allen* his attorney complains, that the said *Edward* (the day of the demise in the declaration) with force and arms, &c. the close, to wit, one close called one other close called and one other close called and the house of him the said *John* at *Cbesbunt* broke and entred, and him from the use, possession, occupation and benefit of the said closes and house for a long time, to wit, from the said 10th day of *October* in the year aforesaid until the day of in the year of the Lord hindred and kept out, whereby the same *John* the profit and benefit of the said closes and house for all the said time lost and was deprived of, and other outrages, &c. to the great damage, &c. and against the peace, &c. whereby he says that he is prejudiced, and hath damage to the value of 30*l*. And therefore he produces the suit, &c.

A. B. late of, &c. was attached to answer to C. D. in a plea, why with force and arms the close of him the said plaintiff at G. he broke and entred, and him from his possession thereof expelled and removed, and him the said plaintiff from his possession thereof for a long time kept out, and other outrages on him committed, to the great damage of him the said plaintiff, and against the peace of the Lord the now King, &c. And whereon the said plaintiff by A. B. his attorney complains, that the said defendant on the day of in the year with force and arms, &c. the close of him the said plaintiff, called G. broke and entred, and him the said plaintiff from his possession thereof expelled and removed, and him the said plaintiff from his possession thereof for a long time, to wit, from the said day of in the year above said until the 20th day of F. then next following kept out, and other outrages, &c. to the great damage, &c.

The same in
C. B.
Parl. Rep.
199.

Bulkeley and Roberts.

M. 8 W. 3. in C. B. Roll 701. Tr. 9 W. 3. in C. B.

London, to wit. **E**LLIS Roberts, Gent. was attached by the writ of the Lord the King of privilege, issuing out of the court here, to answer to Robert Bulkeley, Gent. one of the attornies, &c. in a plea of trespass: And whereon the same R. in his proper person complains, that the said E. on the sixth day of M. in the year at London in the parish of St. Mary le Bow in the ward of Cheape, with force and arms, &c. a certain bill of exchange of him the said R. to the value of 40 l. which the said E. (being a person using commerce) had according to the custom of merchants drawn, and with his own proper hand subscribed, and to one Mr. Tart directed, and had by the same bill of exchange required the said Mr. Tart, at six days after sight of the same bill, to pay to the said Robert Bulkeley, or order, 56 l. and also which he had to the same R. then before delivered, did tear, cancel and destroy, and other outrages, &c. to the great damage, &c. and against the peace, &c. whereby, &c.

For tearing a
bill of ex-
change.

Beamis and his wife against Smith.

H. 9 W. 3. K. B.

London, to wit. **T**homas Bevis and Susanna his wife complain of Nicholas Smith in the custody of the marshal, &c. for this, that he on the first day of August in the year of the Lord 1697, with force and arms, &c. on her the said Susanna, at London afore said, to wit, in the parish of St. Mary le Bow in the ward of Cheape, did make an assault, and her the said Susanna did then and there beat, wound and abuse, so feme, and that her life was greatly despaired of, and also for this, that he on the said first day of August in the year above said, with force and arms, &c. on her the said Susanna, at London afore said in the parish and ward afore said, did likewise make an assault, and her the said Susanna did then and there beat, wound and so grievously abuse, that the same Susanna with a certain child on her body by the said Thomas begotten, being then and there big, afterwards, to wit, on the 6th day of August in the year above said, at London afore said in the parish and ward afore said, miscarried, whereby her life was greatly despaired of, and other outrages on the same Susanna then and there committed, against the peace of the said Lord the now King, and to the damage of the said Thomas 50 l. And therefore he produces the suit, &c.

Trespass by
baron and
feme for an
assault and
battery on the
making her
miscarry.

When, &c. and as to the force and arms, or any thing that is against the peace of the said Lord the King, and also the whole trespass afore said, except the assault and beating afore said, the same N. says, that he is not guilty thereof: And of this he puts himself on the country: And the said Thomas and Susanna thereof likewise, &c. And as to the assault and

As to part,
Not guilty.

As to the rest, and beating aforesaid above supposed to be committed, the same *Nicholas* says, that the said *Thomas* and *Susanna* ought not to have or maintain their action aforesaid thereof against him, because he says, that long before the said time when, &c. and also at the said time when the assault and beating is above supposed to be committed, he the same *Nicholas* was and yet is beadle of the master and wardens of the Merchant-tailors of the fraternity of St. *John* the Baptist in the city of *London*, and the said master and wardens of the Merchant-tailors of the fraternity aforesaid long before the said time when, &c. and also at the said time when, &c. were seised, and yet are seised in their demesne as of fee in the right of their corporation, of and in a messuage in the parish of St. *Martin Outwich* in the ward of *Broad-street*, *London*, called *Merchant-tailors Hall*; and being so seised, the said *Susanna* at the said time when, &c. with force and arms, without the leave of the said master and wardens, did break the house aforesaid, and into the same without reasonable or lawful cause enter; wherefore the said *Nicholas*, being then and there beadle and servant to the said master and wardens, by their command did then and there require the said *Susanna* from thence to depart, which she then and there refused to do; wherefore the said *Nicholas*, being as aforesaid beadle to the said master and wardens, and by their command, in the defence of the said possession of the said master and wardens, gently laid his hands on the said *Susanna* in the messuage aforesaid, to remove and put the said *Susanna* out of the house aforesaid, as he lawfully might; which is the same assault and beating whereof the said *Thomas* and *Susanna* above now complain; without that, that he the said *Nicholas* is guilty of that assault and beating in the said parish of St. *Mary le Bow* in the ward of *Cheape*, or elsewhere, out of the said parish of St. *Martin Outwich* in the ward of *Broad-street*: And this, &c. Wherefore, &c.

Repl' de injuria sua propria. Ought not to be precluded, because they say, that the said *Nicholas* on the first day of *August* in the year aforesaid in the declaration aforesaid above mentioned, of their own wrong, without any such cause by him the said *Nicholas* above in pleading alledged, on her the said *Susanna* did make an assault, and her the said *Susanna* did then and there beat, in manner and form as the said *Thomas* and *Susanna* above thereof against him complain: And this they pray may be inquired of by the country.

Littleton at the suit of Cooke.

In C. B.

Justification in trespass and assault by son of defendant. AND the said *Edward* by L. S. his attorney comes and defends the force and injury when, &c. and as to the force and arms, the said *Edward* says, that he is not guilty thereof, as the said *William Cooke* above against him complains: And of this he puts himself on the country: And the said *William Cooke* thereof likewise: And as to the residue of the trespass aforesaid above supposed to be committed, the same *Edward* says, that the said *William Cooke* ought not to have his action against him, because he says, that one *Lawrence Jersey*, at *Tyley*, otherwise *Trinley* aforesaid, before the said time when the trespass aforesaid is above supposed to be committed, to wit, on the same 29th day of *October* in the year aforesaid; was possessed of three hogsheads of cyder, as of his own proper goods; and he the said *Lawrence* being so as aforesaid possessed of the said three hogsheads of cyder, before the said time when, &c. to wit, on the same 29th day of *October*, at *Tyley*, otherwise *Trinley* aforesaid, the same three hogsheads of cyder delivered to one *Richard Baxter* to be safely kept, and from thence to *Gloucester* in the county of the same city to be carried; by virtue whereof the said *Richard Baxter* of the said three hogsheads of cyder was possessed: And farther the same *Edward* says, that the said *Richard Baxter* being so as aforesaid of the said three hogsheads of cyder possessed, the said *William Cooke* at the said time when, &c. to wit, on the same 29th day of *October* aforesaid, at *Tyley*, otherwise *Trinley* aforesaid, the said three hogsheads of cyder from the possession and custody of the said *R. Baxter* would and endeavoured to take and carry away, and on one *J. Baxter*, the wife of the said *R. Baxter*, then and there the same three hogsheads of cyder for the same *R. Baxter* keeping, and the possession thereof preserving, then and there

there made an assault, and her then and there beat, wounded and abused; wherefore the same *Edward*, then and there, being then the servant of the said *Richard Baxter*, as the servant of the said *Richard Baxter*, the said *Jane*, the wife of the said *Richard Baxter* his said master, and the possession of the said *Richard Baxter* his master, of the said three hogsheds of cyder, lest the said *W. Cooke* should the said *Jane* farther hurt and overpower, and the said three hogsheds of cyder from the custody and possession of the said *Richard Baxter*, the said master of the said *Edward*, should take and carry away, and for the preservation of the possession of the said *Richard Baxter*, the said master of him the said *Edward*, of the said three hogsheds of cyder, against the said *William Cooke* did defend, as he lawfully might; and thereupon the said *William Cooke* on him the said *Edward* did then and there make an assault, and him the said *Edward* would have beat and abused, wherefore the same *Edward* did then and there defend himself against the said *William Cooke*; which is the same residue of the trespass whereof the said *William* above thereof now complains; and so the same *Edward* says, that the injury or damage, if any then and there happened to the same *William Cooke*, it arose from the proper assault of him the said *William Cooke*, and in defence of the said *Jane*, the wife of the said *Richard Baxter*, the master of him the said *Edward*, and of the possession of the said *Richard Baxter*, the master of him the said *Edward*, of the said three hogsheds of cyder, and in the defence of him the said *Edward*: And this the same *Edward* is ready to verify: Wherefore he prays judgment if the said *William Cooke* ought to have his action aforesaid against him, &c.

T. Parker.

6 A

Utlagary.

Utlagary.

Linton and Bilson.

The *præcipe* for an original in case, for money had and received to the plaintiff's use.

London, to wit. **I**F William Linton shall make, &c. put, &c. Thomas Bilson late of London, Gent. &c. in a plea, why whereas the said Thomas on the first day of September in the second year of our reign, at London aforesaid, to wit, in the parish of St. Mary le Bow in the ward of Cheape, was indebted to the said William in 140*l.* of lawful money of England, for so much money of him the said William by him the said Thomas to the use of him the said William before that time had and received; and being so therein indebted, he the same Thomas in consideration thereof afterwards, to wit, on the same first day of September in the second year aforesaid, at London aforesaid in the parish and ward aforesaid, assumed upon himself, and to the said William then and there faithfully promised, that he the said Thomas the said 140*l.* to the same William, when he should be thereto after required, would well and truly pay and satisfy: Nevertheless the said Thomas his promise and assumption aforesaid in form aforesaid made not regarding, but contriving and fraudulently intending the same William in this behalf craftily and subtilly to deceive and defraud, the said 140*l.* or any part thereof, to the same William hath not yet paid, or for the same in any wise satisfied, altho' to do it the said Thomas afterwards, to wit, on the 10th of September in the second year aforesaid, at London aforesaid in the parish and ward aforesaid, by the said William was required, but the said Thomas hath hitherto altogether refused, and yet doth refuse, to pay them, or any wise to satisfy the said William for the same, to the * damage of him the said William 140*l.* as it is said.

* The damage is the same sum for which the action is brought, because of the fine.

Plowman and Ward.

The manner of reverting an outlawry in K. B. for want of a writ of proclamation. Pract. Reg. 262, 266.

England, to wit. **T**HE Lord William the Third, late King of England, sent to the sheriffs of London his writ close in these words, to wit, William, &c. To the sheriffs of London, greeting: We command you, that you cause to be called William Ward late of Hoton in the county of North'ton, Esq; from hustings to hustings until, according to the law and custom of our kingdom of England, he be outlawed, if he shall not appear; and if he shall appear, then take him and safely keep, so that you may have his body before us on the Octave of St. Hillary wheresoever we shall then be in England, to answer to Richard Plowman in a plea, why whereas the said William on the first day of January in the 12th year of our reign, was indebted to the said Richard in 40*l.* of lawful money of England, for wine, goods, wares and merchandizes, by the said Richard to the said William before that time sold and deliver'd; and being so indebted, the said William in consideration thereof afterwards, to wit, the same day and year, at London, to wit, in the parish of St. Mary le Bow in the ward of Cheape, assumed upon himself, and to the same Richard then and there faithfully promised, that he the same William the said 40*l.* to the said Richard, when he should be thereto after required, would well and faithfully pay and satisfy: And whereas also the said William

William afterwards, to wit, the same day and year, at *London* afore said in the parish and ward afore said, in consideration that the said *Richard*, at the special instance and request of the said *W.* had sold and delivered to the same *W.* several other wine, goods, wares and merchandizes, assumed upon himself, and to the same *R.* then and there faithfully promised, that he the same *W.* all such sums of money as the wine, goods, wares and merchandizes last mentioned were reasonably worth, to the same *R.* when he should be thereto after required, would well and faithfully pay and satisfy: And the same *R.* in fact says, that the wine, goods, wares and merchandizes last mentioned, were reasonably worth other 40*l.* of like money, to wit, at *London* afore said in the parish and ward afore said, whereof the said *W.* then and there had notice: And whereas also the said *W.* and *R.* afterwards, to wit, the same day and year, at *London* afore said in the parish and ward afore said, accounted together for and concerning several other sums of money by the said *W.* to the said *R.* due and payable, upon which said account the said *W.* was found in arrear to the said *R.* in 31*l.* 11*s.* and being so found in arrear, the same *W.* in consideration thereof afterwards, to wit, the same day and year, at *London* afore said in the parish and ward afore said, assumed upon himself, and to the same *R.* then and there faithfully promised, that he the same *W.* the said 31*l.* 11*s.* to the said *R.* when he should be thereto after required, would well and faithfully pay and satisfy: Nevertheless the said *W.* his several promises and assumptions afore said in form afore said made not regarding, but contriving and fraudulently intending the said *R.* in this behalf craftily and subtilly to deceive and defraud, the said several sums of money to the same *R.* hath not yet paid (altho' to do it the same *W.* afterwards, to wit, the same day and year, at *London* afore said in the parish and ward afore said, by the said *R.* was required) to the damage of the said *R.* 40*l.* as it is said; and whereon you yourselves have returned to us from the day of the Holy Trinity in three weeks last past, that the said *W.* is not found in your bailiwick; And have there this writ. Witness *J. Holt*, Knt. at *Westminster* day of in the 13th year of our reign.

Jeon the elder attorney. *Deane*.

At the hustings of pleas of land, held in *Guildball* in the city of *London* on *Monday* next after the feast of *St. Benedic* the Abbot in the 13th year within written, the within named by the old *W. Ward* was first called, and did not appear. At the hustings of the pleas of land, held in *Guildball* afore said on *Monday* next after the feast of *St. James* the Apostle in the 13th year within written, the said defendant was called a second time, and did not appear.

The answer of { *Henry Furnese*, Knt.
and
Rob. Beachcroft, Knt. } sheriffs.

This writ as above indorsed was delivered to us the now sheriffs by the said late sheriffs on their going out of their office. At the hustings of the pleas of land, held at *Guildball* afore said on *Monday* next after the feast of *St. Leodegery* the Bishop and Martyr in the 13th year within written, the said defendant was called the third time, and did not appear. At the hustings of pleas of land, held in *Guildball* afore said on *Monday* next after the feast of *St. Luke* the Evangelist in the 13th year within written, the said defendant was called the fourth time, and did not appear. At the hustings of the pleas of land, held in *Guildball* afore said on *Monday* next after the feast of *All Saints* in the 13th year within written, the said defendant was called the fifth time, and did not appear, Therefore he is outlawed.

The answer of { *Peter Floyer*, Knt.
and
William Wisbers, Knt. } sheriffs.

Afterwards, to wit, on day next after in this same term before the Lady the Queen at *Westminster* comes the said *William Ward* by *John Lilly* his attorney, and immediately says, that no writ of proclamation, according to the form of the statute in such case made and provided, issued against the said *William* in the plea afore said, wherefore the outlawry afore said in form afore said against him the said *William* promulged and had is void, and of no force nor effect in law: And this the same *William* is ready to verify: Wherefore he prays judgment, and that the outlawry afore said against him the said *W.* in form afore said promulged and had may be reversed, annulled and held as intirely void, and that the same *W.* to the common law of this kingdom of *England*, and likewise to all things which he by reason of the outlawry afore said hath lost, may be restored: And the said *W.* according to the form of the statute in such case made and provided, finds sufficient bail, to wit, *A. B.* of *London*, Gent. and *C. D.* of *London*, vintner: And now on this day comes into court

No proclamation assigned for error.
6 H. 8. c. 4.
sed. 5.

31 El. c. 3.
3.

court the bail aforesaid, and have granted, and each of them for himself hath granted, that they owe to the said *Richard Plowman* 40*l.* separately, which said several 40*l.* they grant, and each of them for himself grants, shall be made of their and each of their lands and chattels, and levied to the use of the said *Richard*, on condition that the said *William* shall appear to a new original writ by the said *Richard* to be sued out, and shall pay the condemnation which shall be recovered, if the said *Richard* shall prosecute within two terms next following; whereupon the files of the writs of *exigi facias* being searched for the writ of proclamation, it sufficiently appears to the same court here, that the allegation of the said *William* above for his discharge from the outlawry aforesaid is true; Therefore it is considered, that the outlawry aforesaid against the said *William* in form aforesaid pronounced and had be reversed, annulled and held as intirely void, and that the said *William* from the outlawry aforesaid be discharged, and on that account be in no wise molested or aggrieved, but go thereof without day, &c. and that the said *William* to the common law of *England*, and to all things which he by reason of the outlawry aforesaid hath lost, be restored, &c.

Vynal and Harman.

The *copias* on an original in case in order to outlawry.

ANNE by the grace of God, &c. To the sheriff of *Suffex*, greeting: We command you, that you take *John Harman* late of *Lewes* in your county, oatmeal-man, if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us on the morrow of the Holy *Trinity* wheresoever we shall then be in *England*, to answer to *James Vynal* in a plea, why whereas the said *John* on the first day of *April* in the first year of our reign, at *Lewes* aforesaid, (and so recite the declaration) and have there this writ. Witness *J. Holt*, Knt. at *Westminster* 28th day of *May* in the first year of our reign.

The alias.

Anne, &c. To the sheriffs of *London*, greeting: We command you, as we have before commanded you, that you take *Anne Markwicke* late of *London*, spinster, if she shall be found in your bailiwick, and her safely keep, so that you may have her body before us wheresoever we shall then be in *England*, to answer to *James Lopdell* in a plea, why whereas, &c. Witness *J. Holt*, Knt. &c.

The *pluries*.

Anne, &c. To the sheriffs of *London*, greeting: We command you, as we have often commanded you, that you take *Anne Markwicke* late of *London*, spinster, if she shall be found in your bailiwick, and her safely keep, so that you may have her body before us wheresoever we shall then be in *England*, to answer to *James Lopdell* in a plea, why, &c.

The exigent.

Anne, &c. To the sheriffs of *London*, greeting: We command you, that you cause to be called *Anne Markwicke* late of *London*, spinster, from hustings to hustings until, according to the law and custom of this our kingdom of *England*, she be waived, if she shall not appear; and if she shall appear, then take her and cause her to be safely kept, so that you may have her body before us from the day of wheresoever we shall then be in *England*, to answer to *James Lopdell* in a plea, why whereas, &c. to the damage of the said *James* 20*l.* as it is said, and whereon you yourselves have returned to us from the day of last past, that the said *Anne* is not found in your bailiwick; and have there this writ. Witness, &c.

The proclamation.

Anne, &c. To the sheriffs of *Middlesex*, greeting: Whereas we have lately by our writ commanded our sheriffs of *London*, that they should cause to be called *Anne Markwicke* late of *London*, spinster, from hustings to hustings until, according to the law and custom of this our kingdom of *England*, she should be waived, if she should not appear; and if she should appear, then they should take her and cause her to be safely kept, so that they might have her body before us from the day of wheresoever we should then be in *England*, to answer to *James Lopdell* in a plea, why whereas, &c. to the damage of him the said *James* 20*l.* as it is said: We therefore command you, that by the statute in the 31st year of the reign of the Lady *Elizabeth*, late Queen of *England*, therefore provided, you cause the said *Anne* to be proclaimed on three several days, according to the form of that statute, whereof let one proclamation aforesaid be at or near to the most usual door of the church of the parish of where the said *Anne* is dwelling, that she may render herself to our sheriffs of *London*, so that the same sheriffs may have her body before us at the said term, to answer to the said *James* in the plea aforesaid, And have there this writ. Witness, &c.

Stone and Gufston.

ANNE, &c. To the sheriff of *Middlesex*, greeting: Whereas your predecessor, our *Schrs faciat* late sheriff of *Middlesex*, was commanded, that he should take *William Gufston* late of *Westminster*, Esq; otherwise called *William Gufston* of the *Middle-Temple*, *London*, Esq; if, &c. and safely, &c. so that he might have his body before our justices at *Westminster* on the *Octave* of *St. Hillary*, to satisfy *Andrew Stone* as well a certain debt of 200*l.* which the same *Andrew* in our court before our justices at *Westminster* had recovered against him, as 12*l.* which to the same *Andrew* in our same court had been adjudged for his damages which he had had by reason of the detention of that debt whereof he was convicted: And on the same day came the said *Andrew* by his attorney, and offered himself the 4th day against the said *W. Gufston* in the plea aforesaid, and he did not come; and the sheriff then returned, that he was not found, therefore the sheriff was commanded, that he should cause the said *W. Gufston* to be called from county to county until, &c. so that he might have his body on the morrow of the *Holy Trinity*, to satisfy the said *Andrew* in the plea aforesaid, whereof, &c. And be it known, that the writ thereof the justices in our said court in that same term delivered to the under-sheriff of your county in form of law to be executed, &c. on which your said predecessor our sheriff returned, that at his county, held at the *Hercules's Pillars* in *Brook-street* in the county aforesaid on the 3d day of *June* in the 2d year of our reign, the said *W. Gufston* was the fifth time called, and did not appear, and so at four county-courts then next preceding was called, and did not appear; and because he appeared at none of the said county-courts, therefore he was outlawed, as by the record and proceedings thereof, which we lately caused to be brought into our court before us for certain causes of error, appears to us on record; and the said *W. Gufston* hath assigned errors on record, as by the inspection of the record thereof appears likewise to us on record: Therefore we command you, that by good and lawful men of your bailiwick you give notice to the said *Andrew Stone*, that he be before us from the day of wheresoever, &c. to hear the record and proceedings aforesaid, and also the errors in the pronouncing of the outlawry aforesaid assigned, if he shall think fit, and farther to do and receive what our said court before us shall then and there consider in this behalf; And have there the names of those by whom you shall give him notice, and this writ. Witness, &c.

Crosse and Crosse.

England, to wit. **T**HE Lord the King hath sent to his justices, assigned to hold pleas before himself, his writ close in these words, to wit, *William* the Third, &c. To our justices, assigned to hold pleas before Ourselves, greeting: Because in the record and proceeding, and also in the pronouncing of the outlawry against *Thomas Crosse*, late of *London*, the younger, Gent. in a plea of trespass on the case, whereon he is outlawed in *London*, pronounced before us returned, as it is said, a manifest error hath happened, to the great damage of him the said *Thomas*, as by his complaint we have understood: We being willing the error, if any hath been, should be duly corrected, and full and speedy justice done to the said *Thomas* in this behalf, command you, that if the outlawry aforesaid is returned before us, as it is said, then the record and proceedings aforesaid being inspected, you farther cause to be done therein, for the error and vacating of the outlawry aforesaid, what of right and according to the law and custom of our kingdom of *England* shall be to be done. Witness Ourselves at *Westminster* 13th day of *May* in the 10th year of our reign.

Allowed by the court.

Fijb.

William the Third, &c. To the sheriffs of *London*, greeting: We command you, that you cause *Thomas Crosse*, late of *London*, the younger, Gent. to be called from hustings to hustings until, according to the law and custom of this our kingdom of *England*, he be outlawed, if he shall not appear; and if he shall appear, then take him and safely keep him, so that you may have his body before us on the morrow of *All Souls* wheresoever we shall then be in *England*, to answer to *Thomas Crosse* the elder, Gent. in a plea, why whereas the said *T. Crosse* the younger on the fifth day of *June* in the 9th year of our reign, at *London* aforesaid, to wit, in the parish, &c. was indebted, (so recite the declaration to) to the damage of him the said *T. Crosse* the elder 100*l.* as it is said; and whereon you yourselves

have returned to us from the day of the Holy Trinity in three weeks last, that the said T. C. the younger is not found in your bailiwick; And have there this writ. Witness J. Holt, Kt. at Westminster 23d day of January in the 9th year of our reign. Deane.

The return by
the old sher-
iffs.

At the hustings of pleas of land, held in Guildball in the city of London on Monday next after the feast of the Apostles Peter and Paul in the year within written, the within named Thomas was first called, and did not appear. At the hustings of pleas of land, held in Guildball afore said on Monday next after the feast of St. James the Apostle in the year within written, the said defendant was called the second time, and did not appear.

The answer of { John Woolfe Knt.
and
Samuel Blewitt, Knt. } sheriffs.

The return by
the new.

This writ as above indorsed was delivered to us the now sheriffs by the said late sheriffs on their going out of their office. At the hustings of pleas of land, held in Guildball afore said on Monday next before the feast of the translation of St. Edward the King and Confessor in the year within written, the said defendant was a third time called, and did not appear. At the hustings of pleas of land, held in Guildball afore said on Monday next before the feast of the Apostles Simon and Jude in the year within written, the said defendant was a fourth time called, and did not appear; and because there was not another hustings between the day of the teste and the day of the return of the said writ, therefore we could not cause him the said defendant to be farther called on this writ.

The answer of { Barth. Gracedieu, Esq;
and
James Collet, Esq; } sheriffs.

The writ of
allocat'.

William the Third, &c. To the sheriffs of London, greeting: We command you, that those four hustings at which T. Crosse, late of London, the younger, Gent. was called, and did not appear, as you yourselves to us on the morrow of All Souls last past have returned, being allowed, you cause the said T. to be farther called at your next hustings in London until, according to the law and custom of this our kingdom of England, he be outlawed, if he shall not appear; and if he shall appear, then take him and cause him to be safely kept, so that you may have his body before us on the Octave of St. Martin wheresoever we shall then be in England, to answer to T. Crosse the elder, Gent. in a plea, why whereas the said T. Crosse the younger on the fifth day of March in the 9th year of our reign, at London afore said in the parish of St. Mary le Bowe in the ward of Cheape, was indebted to the same T. Crosse the elder in the sum of 100 l. of good and lawful money of England of the money of him the said T. Crosse the elder, by the said T. Crosse the younger before that time had and received; and being so therein indebted, he the said T. Crosse the younger afterwards, to wit, the day, year and place above said, in consideration thereof, assumed upon himself, and to the said T. Crosse the elder then and there faithfully promised, that he the said T. Crosse the younger the said 100 l. to the same T. Crosse the elder, when he should be thereto after required, would well and faithfully pay and satisfy: And whereas also afterwards, to wit, the day, year and place above said, the said T. Crosse the elder and T. Crosse the younger accounted together for several sums of money, and upon that account the said T. Crosse the younger was found in arrear to the said T. Crosse the elder in other 100 l. of good and lawful money of England; and being so found therein in arrear, he the said T. Crosse the younger in consideration thereof afterwards, to wit, the day, year and place above said, assumed upon himself, and to the said T. Crosse the elder then and there faithfully promised, that he the said T. Crosse the younger the said 100 l. last mentioned to the said T. Crosse the elder, when he should be thereto after required, would well and truly pay and satisfy: Nevertheless the said T. Crosse the younger his several promises and assumptions afore said in form afore said made not regarding, but contriving and fraudulently intending the said Thomas Crosse the elder in this behalf craftily and subtilly to deceive and defraud, the said several sums of money, or any penny thereof, to the said T. Crosse the elder (altho' to do it the said T. Crosse the younger afterwards, to wit, on the 27th day of March in the year above said by the said T. Crosse the elder was often required) hath not yet paid, to the damage of the said T. C. the elder 100 l. as he says; And have there this writ. Witness J. Holt, &c.

The return.

From those four hustings at which the within named Thomas was the fourth time called. At the hustings of pleas of land, held in the Guildball of the city of London on Monday next before the feast of St. Martin the Bishop in the year within written, the said defendant was the fifth time called, and did not appear; Therefore he is outlawed.

The answer of { Barth. Gracedieu, Knt.
and
James Collet, Knt. } sheriffs.

After-

Afterwards, to wit, on *Friday* next after 15 days of *Easter* in this same term before the Lord the King at *Westminster* comes the said *Thomas Crosse* by *John Lilly* his attorney, and immediately says, that in the pronouncing of the outlawry aforesaid there is manifest error, in this, to wit, that the return of the said writ of *exigi facias*, and also the said writ of *allocatur*, is insufficient, invalid and void in law; therefore in that there is manifest error; There is error also in this, to wit, that no judgment of outlawry upon the writ of *allocatur* aforesaid is returned; therefore in that there is manifest error: And the said *Thomas Crosse* the younger prays the writ of the Lord the King, to warn the said *Thomas Crosse* the elder to be before the said Lord the King to hear the record and proceedings aforesaid; and it is granted him: Whereby the sheriffs of *London* are commanded, that by good, &c. they give notice to the said *Thomas Crosse* the elder, that he be before the said Lord the King on day next after wherefoever, &c. to hear the record and proceedings aforesaid, if, &c. and farther, &c. The same day is given to the said *Thomas Crosse* the younger, &c.

Error, that the writ of *allocatur* is insufficient, and that no judgment of outlawry is thereon returned.

Edwards and Fox.

England, to wit. THE Lord *William* the Third, late King of *England*, &c. sent to the sheriffs of *London* his writ close in these words, to wit, *William* the Third, &c. To the sheriffs of *London*, greeting: We command you, that you cause *Thomas Fox*, Esq; late warden of our prison of the *Fleet*, to be called from hustings to hustings until, according to the law and custom of this our kingdom of *England*, he be outlawed, if he shall not appear; and if he shall appear, then take him and cause him to be safely kept, so that you may have his body before us on the morrow of the Ascension of the Lord, wherefoever we shall then be in *England*, to satisfy *John Edwards*, Gent. one, &c. as well 52 l. debt which the same *John* lately in our court before *George Treby*, Knt. and his companions, our justices of the Common Bench, hath recovered against him, as 60 s. which to the same *John* in our same court were adjudged for his damages which he had sustained, as well by reason of the detention of that debt as for his costs and charges by him about his suit in that behalf expended, whereof the said *Thomas* is convicted, as by the inspection of the record and proceedings thereof, which we have lately for certain reasons caused to be brought before us, appears to us on record; and whereon in our court before us it is considered, that the said *John* may have thereof execution against the said *Thomas*, and also for 9 l. which to the same *John* in our said court before us were adjudged, according to the form of the statute thereof made for his damages, costs and charges which he hath sustained, by reason of the delay of execution of the judgment aforesaid, on pretence of prosecuting our certain writ of error by him the said *Thomas* of and upon the premisses in our court before us prosecuted, whereon the judgment aforesaid was in the same court afterwards affirmed, as likewise appears to us on record; and whereon you yourselves have returned to us from the day of *St. Martin* in 15 days last past, that the said *Thomas* is not found in your bailiwick; And have there this writ. Witness, &c.

Error in K. B. to reverse an outlawry after judgment in C. B. Parl. Rep. 72, 75. The exigent.

3 H. 7. 10.

Deane.

On which day before the said Lord the King at *Westminster* Owen Buckingham, Knt. and Edward Wills, Knt. sheriffs of the city of *London*, have returned the writ aforesaid to them directed in this form, to wit, At the hustings of Common Pleas, held in the Guildball of the city of *London* on *Monday* next after the feast of the Conversion of *St. Paul* in the year within written, the within named *T. Fox*, Esq; was first called, and did not appear. At the hustings of Common Pleas, held in the Guildball aforesaid on *Monday* next before the feast of *St. Valentine* the Bishop and Martyr in the year within written, the said defendant was the second time called, and did not appear. At the hustings of Common Pleas, held at the Guildball aforesaid on *Monday* next after the feast of *Sts. Perpetua* and *Felicitas* in the 8th year of the Lord the King within written, the said defendant was the third time called, and did not appear. At the hustings of Common Pleas, held at the Guildball aforesaid on *Monday* next before the feast of the Annunciation of the Blessed Virgin *Mary* in the 8th year above said, the said defendant was the fourth time called, and did not appear. At the hustings of Common Pleas, held in the Guildball aforesaid on *Monday* next before the feast of *St. Mark* the Evangelist in the 8th year above said, the said defendant was the fifth time called, and did not appear; Therefore he is outlawed.

The return.

The answer of { Owen Buckingham, Knt. }
and { Edward Wills, Knt. } sheriffs.

Wherefore the sheriff of *Shropshire* was commanded, that he should take him, if, &c. to stand right in court, &c. And now, to wit, on *Thursday* next after the Octave of the Purification of the Blessed Virgin *Mary* in this same term before the Lady *Anne*, now Queen of *England*, &c. at *Westminster* comes the said *Thomas Fox*, Writ of error in K. B.

Fox, Esq; in his proper person; and the said *T. Fox* produces here in court a certain writ of the said Lady the now Queen close to her justices here directed, which follows in these words, to wit, *Anne*, &c. To our justices, assigned to hold pleas in our court before us, greeting: Because in the record and proceedings, and also in the pronouncing of the outlawry against *T. F.* Esq; late warden of the prison of the Lord *William* the Third, late King of *England*, of the *Fleet*, to satisfy *J. Edwards*, Gent. one of the attorneys of the court of the said late King of the Bench, as well 52 l. debt which the same *John* lately in the court of the said late King before *G. Treby*, Knt. and his companions, the justices of the said late King of the Common Bench had recovered against him, as 60 s. which to the same *John* in the said court of the said late King were adjudged for his damages which he had sustained, as well by reason of the detention of that debt as for his costs and charges by him about his suit in that behalf expended, whereof the said *Thomas* is convicted, as by the inspection of the record and proceedings thereof, which the said late King had lately for certain reasons caused to be brought before him the said late King, appears to us on record; and whereon in the same court of the said late King before the said late King himself it was considered, that the said *John* should have execution thereof against the said *Thomas*, and also for 9 l. which to the same *John* in the same court of the said late King before the King himself were adjudged, according to the form of the statute thereof made, for his damages, costs and charges which he had sustained by reason of the delay of execution of the judgment aforesaid, on pretence of prosecuting a certain writ of the said late King of error by him the said *Thomas* of and upon the premisses in the same court of the said late King prosecuted, whereon the judgment aforesaid in the same court of the said late King was afterwards affirmed, as likewise appears to us on record, whereon the said *T. Fox* is outlawed in *London*, pronounced, and before the said late King returned, as it is said, a manifest error hath happened, to the great damage of him the said *Thomas*, as by his complaint we have understood: We being willing that the error, if any hath been, should be duly corrected, and full and speedy justice done to the said *T. Fox* in this behalf, command you, that if the outlawry aforesaid is returned before you, as it is said, then the record and proceedings aforesaid being inspected, you farther cause to be done therein, for the annulling of the outlawry aforesaid, what of right and according to the law and custom of our kingdom of *England* shall be to be done. Witness Ourselves at *Westminster* the 11th day of *February* in the first year of our reign.

Cesar.

Error, no addition according to the statute.

1 H. 5. 5.

The hustings not said to be held for the city.

Scire facias

Nichil returned.

An alias awarded.

And upon this the said *T. Fox* says, that in the record and proceedings aforesaid, and also in the pronouncing of the outlawry aforesaid, there is manifest error, in this, to wit, because it doth not appear by the writ of *exigi facias* aforesaid, to the sheriffs of *London* aforesaid directed, of what town or hamlet or county the said *T. F.* then or then late was, as according to the form of the statute in such case made and provided it ought; and therefore in that there is manifest error: There is error also in this, to wit, because it doth not appear by the return of the sheriffs of *London* aforesaid to the writ of *exigi facias* aforesaid, that the hustings aforesaid, or any of them, were held for the city of *London*, as by the law of the land they ought; therefore in that there is manifest error: Wherefore he prays the judgment of the court in the premisses, and that the outlawry aforesaid for those errors and others, being in the record and proceedings of the pronouncing of the outlawry aforesaid, may be reversed, annulled and held as intirely void, and that he the said *T. Fox* to the common law of this kingdom of *England*, and to all things which he by reason of the outlawry aforesaid hath lost, may be restored, and that he from the outlawry aforesaid by the court here may be dismissed, &c. And the same *T. Fox* prays the writ of the said Lady the now Queen to warn the said *J. Edwards* to be before the said Lady the Queen from the day of *Easter* in fifteen days, wheresoever, &c. to hear the record and proceedings, &c. and it is granted him, &c. whereby the sheriffs of *London* are commanded, that by good, &c. they give notice to the said *J. E.* that he be before the said Lady the Queen from the day of *Easter* in 15 days, wheresoever, &c. to hear the record and proceedings aforesaid, if, &c. and farther, &c. The same day is given to the said *T. F.* &c. On which day before the Lady the Queen at *Westminster* comes the said *T. F.* in his proper person; and the sheriffs of *London*, to wit, *R. Beddingfield*, Knt. and *S. Gerrard*, Bart. have now returned, that the said *J. E.* hath nothing in their bailiwick whereby they can give him notice, nor is he found in the same; and the said *John* hath not come: Therefore as before the sheriffs are commanded, that by good and lawful men of their bailiwick they give notice to the said *John*, that he be before the said Lady the Queen from the day of *Easter* in five weeks wheresoever, &c. to hear the record and proceedings aforesaid, if, &c. and farther, &c. The same day is given to the said *T. Fox*, &c. On which day before the said Lady the Queen at *Westminster* comes the said *T. F.* in his proper person; and the said sheriffs of *London* as before return, that the said *J.* hath nothing in their bailiwick whereby they can give him notice, nor is he found in the same; and the said *J. E.* on the 4th day of plea being solemnly called doth not come, nor say any thing in bar or preclusion of the matters aforesaid above for error assigned; whereupon the said *T. F.* as before says, that in the record and proceedings aforesaid, and also in the pronouncing

nouncing of the outlawry aforesaid, there is manifest error, alledging the errors aforesaid by Count on the him in form aforesaid above alledged; and prays that the said outlawry for those errors and errors. others being in the record and proceedings aforesaid, may be reversed, annulled and held as intirely void, and that he to the common law of the land of this kingdom of England, and to all things which he by reason of the pronouncing of the outlawry aforesaid hath lost, may be restored; and that the court of the said Lady the Queen now here may proceed to the examination, as well of the record and proceedings of the promulgation of the outlawry aforesaid, as of the matters aforesaid above for error assigned: And because the court of the said Lady the Queen now here are not yet advised to give their judgment of and upon the premisses, day therefore is given to the parties aforesaid before the Lady the Queen until on the morrow of the Ascension of the Lord wheresoever, &c. to hear their judgment thereon, because the court of the said Lady the Queen here thereof not yet, &c. On which day before the Lady the Queen at *Westminster* comes the said *Thomas Fox* in his proper judgment for person; whereupon all and singular the premisses being seen, and by the court of the said the reversal. Lady the Queen now here more fully understood, and mature deliberation being thereon had, it is considered, that the outlawry aforesaid for the errors aforesaid and others, being in the record and proceedings aforesaid, be reversed, annulled and held as intirely void; and that the said *Thomas Fox* from the outlawry aforesaid be discharged, and be not molested, nor in any wise aggrieved on that account, but may go thereof quit; and that the said *Thomas Fox* to the common law of England, and to all things which he by reason of the outlawry aforesaid hath lost, be restored, &c.

Patherick and Walden.

William the Third, &c. To the sheriff of *Cambridge*, greeting: We command you, A special ca-
that you do not omit on the account of any liberty of your county, but by the pias utlaga-
oath of good and lawful men of your county, you diligently inquire what goods and chat- tum.
tels, lands and tenements, *Lyonell Walden* late of *London*, Esq; otherwise called *Lyonell* Parl. Rep. 72,
Walden of *Huntingdon* in the county of *Huntingdon*, Esq; hath or had in your bailiwick on 75.
Monday next after the feast of the Apostles *Philip* and *James* in the 8th year of our reign, or ever after, on which day he was outlawed in *London* at the suit of *Jacob Patherick*, other-
wise *Partherick*, in a plea of debt whereon he is convicted, as our sheriffs of *London* to our justices at *Westminster* at a certain day now past have certified, and those by their oath cause to be extended and appraised, according to the true value of the same, and those which by that inquisition you shall find into our hands take and cause to be safely kept, so that of the true value and issues of the same you answer to us; and they being so extended and appraised, what you shall do therein certify to our justices at *Westminster* on the Octave of *St. Hillary* distinctly and openly under your seal and the seals of those by whose oath you shall make that extent and appraisement; and because the same *Lyonell* the outlaw wanders and secretes himself in your county, in contempt of us, and to the prejudice of our crown, we command you, that you take the said *Lyonell* wheresoever he shall happen to be found in your bailiwick, as well within liberties as without, and him safely keep, so that you may have his body before our justices at *Westminster* at the said term to do and receive what our said court shall consider concerning him in this behalf; And have there this writ. Witness *G. Treby*, &c.
Trevor.



The execution of this writ appears in a certain schedule to this writ annexed.

Richard Parlett Read, Esq; sheriff.

Cambridge, to wit. **A**N inquisition indented taken at *Cambridge* 7th day of *December* in the 12th year of the reign of the Lord *William* the Third, now King of England, &c. before me *Richard Parlett Read*, Esq; sheriff of the county aforesaid, by virtue of the writ to me directed, and to this inquisition annexed, by the oath of *Henry Gibbons*, *Richard Rogers*, (reciting all the 12) good and lawful men of my bailiwick, who being sworn and charged, on their oath aforesaid say, that *Lyonell Walden*, Esq; in the writ to this inquisition annexed mentioned, on *Monday* next after the feast of the Apostles *Philip* and *James* in the 8th year of the reign of the Lord the now King; on which day he was outlawed in *London* at the suit of *Jacob Patherick*, otherwise *Partherick*, in a plea of debt whereof he is convicted, was seised in his demesne as of fee of and in one messuage and one close of pasture thereto belonging, lying and being in the parish of *Doddington* within the stile of *Ely* in the county aforesaid, containing by estimation one acre and the half of an acre in the occupation of the said *Lyonell Walden*, of the clear yearly value in all issues, besides
The inquisition thereon.

besides reprises, 10 s. and also of and in two closes of pasture in *Doddington* aforesaid, containing by estimation 35 acres (more or less) called or known by the name of *Doffers Close* or *Woodfalls Close* in *Doddington* aforesaid in the occupation of *T.W.* of the clear yearly value in all issues, besides reprises, 40 s. and also of and in one other close of pasture, containing by estimation 12 acres (more or less) in *Doddington* aforesaid in the occupation of *J.R.* of the clear yearly value in all issues, besides reprises, 20 s. and also of and in one other close of pasture, called *Herdmans Close* in *Doddington* aforesaid, containing by estimation 7 acres in the occupation of *T.W.* of the clear yearly value in all issues, besides reprises, 10 s. and also of and in one messuage called *Begles*, and one close of pasture, containing by estimation 12 acres (more or less) together with 30 acres of land, called *Lottground*, to the same belonging; and also of and in 30 acres of arable land and meadow to the same messuage belonging, lying dispersedly in the fields of *Doddington* aforesaid, in the occupation of the said *T.W.* of the clear yearly value in all issues, besides reprises, 40 s. and also of and in one messuage, 30 acres of land called *Lottground*, and 25 acres of arable land lying dispersedly in the fields of *Doddington* aforesaid, in the occupation of *W.T.* and others, of the clear yearly value in all issues, besides reprises, 20 s. and also of and in 100 acres of arable land and meadow, lying dispersedly in the fields of *Doddington* aforesaid, late in the occupation of the said *T.W.* and others, of the clear yearly value in all issues, besides reprises, 40 s. and also of and in 40 acres of marsh, called *Fritbs*, and also of and in four acres of pasture, called *Begles Leys* in *Doddington* aforesaid, in the occupation of *Edward Nightgoe*, of the clear yearly value in all issues, besides reprises, 20 s. (so on reciting several more particulars to) All which said premises I the said sheriff on the day of the caption of this inquisition into the hands as by the writ aforesaid I am commanded: And the jurors aforesaid on their oath aforesaid say, that *Lyonell Walden* in the writ aforesaid named on *Monday* next after the feast of the Apostles *Philip* and *James* in the 8th year of the reign of the said Lord the now King aforesaid, or ever after, had not any other or more lands or tenements in my bailiwick, which I can extend, to the knowledge of the jurors aforesaid, or any of them. In witness whereof as well I the said sheriff as the jurors aforesaid have set our hands and seals to this inquisition the day, year and place first aforesaid, &c.

Richard Parlett Read, Esq; sheriff.

Wager of law.

Delves and Gunner.

Suffex, to wit. **T** *Thomas Delves* complains of *William Gunner* in the custody of the Account a-
 marshal, &c. in a plea, that he render to him a reasonable account gainst a bailiff
 from the time that he was the bailiff of him the said *Thomas*, for by the hands
 of the plain-
 this, to wit, that whereas the said *William Gunner* had been the bailiff of him the said
Thomas, at *Eastboadley* in the county aforesaid, from the third day of *March* in the year
 of the Lord 1700 until the thirtieth day of the same month of *March*, and during the
 same time had received of the goods, wares and merchandizes of the said *Thomas*, by
 the hands of the said *Thomas*, the goods, wares and merchandizes following, to wit, five
 bags of hops, containing therein 1200 weight two quarters and 22 l. of hops, to the value
 of 49 l. 10 s. of lawful money of *England*, to merchandize and make profit thereof for
 him the said *Thomas*, and to render a reasonable account thereof to the said *Thomas*, when
 he should be thereto required: Nevertheless the said *William*, altho' often required, &c. a
 reasonable account thereof to the said *Thomas* hath not yet render'd, but the same to him
 hitherto to render hath wholly refused, and yet doth refuse, whereby the said *Thomas* says
 that he is prejudiced, and hath damage to the value of 100 l. And therefore he produces
 the suit, &c.

And the said *William* by *George Tilden* his attorney comes and defends the force and Bar, not his
 injury when, &c. and says, that he never was the bailiff of the said *Thomas* of the goods, bailiff.
 wares and merchandizes aforesaid of the said *Thomas*, or of any parcel thereof, in the form
 that the said *Thomas* hath above against him declared: And this he is ready to defend
 against him and his suit, as the court of the Lady the Queen here shall consider: There-
 fore it is considered, that the said *William* do wage to him thereof his law himself with Judgment that
 twelve hands; pledges of the law *John Den* and *Richard Fen*; and let him come with his the defendant
 law here on *Thursday* next after three weeks of *St. Michael*; and the attorney of the said wage his law.
William is order'd to have here on the same day the said *William* his master in his proper
 person to perfect his law aforesaid, &c.

Ro. Raymond.

Friday next after three weeks of *St. Michael* in the 6th year of *Queen Anne*.

Delves }
 against } It is order'd, that a nonsuit be recorded on the motion of *Mr. Raymond*.
Gunner. }

Rule for a
 nonsuit.

By the court.

AND

The defendant perfects his law, and judgment for the defendant. If the plaintiff is nonsuit, then the defendant comes in his proper person; and the said plaintiff, altho' on the same day solemnly called, doth not come, nor farther prosecute his bill afore-
AND the same defendant defends the force and injury when, &c. and says, that he doth not owe to the plaintiff the said 100*l.* nor any penny thereof, in the form as the said plaintiff hath above against him declared: And this he is ready to defend against him and his suit however the court of the said Lord the King here shall consider: Therefore it is considered, that the said defendant do wage to him his law himself with twelve hands, and let him come with his law before the Lord the King at *Westminster* on day next after Pledges to prosecute the law *John Doe* and *Richard Roe*; and the attorney of the said defendant is order'd to have before the said Lord the King on the same day the said defendant his master in his proper person to perfect thereof his law afore-*said*, &c. The same day is given to the said plaintiff there, &c. On which day before the Lord the King at *Westminster* comes as well the said plaintiff by his attorney afore-*said*, as the said defendant in his proper person; and hereupon the said defendant hath perfected thereof his law himself with twelve hands, as he above thereof waged it, &c. Therefore it is considered, that the said plaintiff take nothing by his bill afore-*said* but for his false plaint be in mercy: And the said defendant go thereof without day, &c.
 Judgment and costs as in a common nonsuit.

Entries.

Entries.

Midd., to wit. **B**E it remember'd, that on *Wednesday* next after 15 days of *Easter* in Memorand' of this same term before the Lord the King at *Westminster* came *A. B.* the same by *John Allen* his attorney, and produced here in the court of the said Lord the King then there his certain bill against *C. D.* in the custody of the marshal, &c. in a plea of trespass (if in trespass); in a plea of trespass on the case (if in case); in a plea of breach of covenant (if in covenant); in a plea of trespass and ejectment (if in ejectment); in a plea of debt (if in debt); in a plea of trespass on the case (if in trover). And there are pledges to prosecute, to wit, *John Doe* and *Richard Roe*; which said bill follows in these words, to wit, *Middlesex*, to wit, (so on the declaration verbatim, only when you come to in the custody of the marshal, &c. you say, Being in the custody of the marshal of the Marshalsey of the Lord the King before the King himself.)

Midd., to wit. **B**E it remember'd, that otherwise, to wit, in *Easter* term last past before the Lord the King at *Westminster* came *A. B.* &c. (as in the first memorandum.)

London, to wit. **B**E it remember'd, that otherwise, to wit, in *Easter* term in the 10th Of a term a year of the reign of the Lord *William* the Third, now King of *Eng.* above a year land, &c. before the Lord the King at *Westminster* came *A. B.* &c. (as in the first memorandum.)

And now on this day, to wit, *Friday* next after the morrow of the Holy *Trinity* in this same term, until which day the said defendant had leave to imparl to the bill aforesaid, *Pract. Reg. 34*; and then to answer, &c. before the Lord the King at *Westminster* comes as well the said plaintiff by his attorney aforesaid, as the said defendant by *J. L.* his attorney; and the said defendant defends the force and injury when, &c. and says, that he is not guilty thereof: And of this he puts himself on the country: And the said plaintiff thereof likewise, * &c. Therefore let a jury thereon come before the Lord the King at *Westminster* on *Wednesday* next after three weeks of the Holy *Trinity*; and who neither, &c. to &c. supplies, recognize, &c. because as well, &c. The same day is given to the parties aforesaid *putt himself on the country.*

Note; In all pleas the defendant ought to make his defence, to wit, Defends the force: *Inst. 127. b.* and injury when, &c.

England, to wit. **T**HE Lady the Queen hath sent to the sheriff of *Suffex* her writ close The entry of in these words, to wit, *Anne* by the grace of God, of *Great Britain*, a *latitat* on the roll to *France* and *Ireland* Queen, defender of the faith, &c. To the sheriff of *Suffex*, greeting: prevent the Whereas we lately commanded our sheriff of *Middlesex*, and so on to—And have there statute of limitation. Witness *J. Holt*, Knt. at *Westminster* 4th day of *July* in the sixth year of our reign. *Holt. Coleman.* On which day before the Lady the Queen at *Westminster* comes the

the said *Henry Kenward* in his proper person, and the sheriff of the county of *Sussex*, to wit, *John Miller*, Bart. returns, that the said *Elizabeth* is not found in his bailiwick, and the same *Elizabeth* doth not come: Therefore as before the sheriff is commanded, that he take the said *Elizabeth*, if she shall be found in his bailiwick, and her safely keep, so that he may have her body before the said Lady the Queen on day next after to answer to the said *Henry* in the plea aforesaid: The same day is given to the said *Henry* there, &c.

Scras and Harris.

Plea, as to the force and arms, Not guilty.

As to the residue *son af fault.*

Repl' de injuria sua propria.

WHEN, &c. and as to the force and arms, and whatever is against the peace of the said Lady the Queen, the same *Thomas* says, that he is not guilty thereof: And of this he puts himself on the country: And the said *Henry* thereof likewise, &c. And as to the residue of the trespass aforesaid above supposed to be committed, the same *Thomas* says, that the said *Richard* ought not to have or maintain his action aforesaid thereof against him, because he says, that the said *Richard* at the said time when the trespass aforesaid is above supposed to be committed, at *Lewis* in the county aforesaid, with force and arms, &c. on him the said *Thomas* did make an assault, and him the said *Thomas* then and there would have beat, wounded and abused, if he the said *Thomas* had not then and there immediately defended himself against the said *Richard*, wherefore the said *Thomas* did then and there defend himself against the said *Richard*: And so the said *Thomas* says, that the mischief or damage, if any then and there happened to the said *Richard*, it was from the proper assault of him the said *Richard*, and in the defence of him the said *Thomas*: And this the same *Thomas* is ready to verify: Wherefore he prays judgment if the said *Richard* ought to have or maintain his action aforesaid against him, &c.

And the said *Richard* says, that he by any thing by the said *Thomas* above in pleading alledged ought not to be precluded from having his action aforesaid for the residue of the said trespass against the said *Thomas*, because he says, that the said *Thomas* the day and year aforesaid in the declaration aforesaid mentioned, at *Lewis* aforesaid in the county aforesaid, of his own wrong, without such cause by him the said *Thomas* above in pleading alledged, on him the said *Richard* did make an assault, and him the said *Richard* did beat, wound and abuse, in manner and form as the said *Richard* above thereof against the said *Thomas* complains: And this he prays may be inquired of by the country: And the said *Thomas* thereof likewise, &c. Therefore as well to try that issue as the said other issue between the parties aforesaid above joined, let a jury thereon come before the Lady the Queen at *Westminster* on *Thursday* next after three weeks of the Holy Trinity; and who neither, &c. to recognize, &c. because as well, &c. The same day is given to the parties aforesaid there, &c.

I confess this action, and that the plaintiff hath sustained damages to

57 l. 4 s. 6 d. so that execution may stay till 15 April next.

W. T. 9 Feb. 5 G. This is done to prevent the expence of an inquiry.

Clift 421.

For costs 6 l. 9th Feb. 1718.

LONDON, to wit. **J**OHNN H. the elder complains of *William T. Gent.* one of the filazers of the court of the Lord the King before the King himself present here in court in his proper person, for this, to wit, that whereas the said *William* after the first day of *May* in the year of the Lord 1705, to wit, on the 28th day of *March* in the year of the Lord 1718, in the parish of *St. Mary le Bow* in the ward of *Cheape*, did make his certain note in writing, called a promissory note, with his own proper hand subscribed, bearing date (*so on to*) And therefore he produces the suit, &c.

And the said *William* in his proper person comes and defends the force and injury when, &c. and says, that he cannot deny the action of the said *John*, nor but that he the said *William* did assume upon himself in manner and form as the said *John* above thereof against him complains, nor likewise but that the said *John* hath sustained damages, by reason of the non-performance of the promise and assumption aforesaid, to

57 l. 4 s. 6 d. as he the said *John* above by declaring supposes: And upon this the said *John* prays judgment, and those damages so acknowledged, together with his costs and charges by him about his suit in this behalf sustained, to be adjudged to him, &c. Therefore it is considered, that the said *John* do recover against the said *William* his damages aforesaid to 57 l. 4 s. 6 d. above acknowledged, and also 6 l. for his costs and charges aforesaid, with his assent by the court of the said Lord the King now here adjudged; which said damages in the whole amount to 63 l. 4 s. 6 d. And the said *Thomas* in mercy, &c.

Booth and Johnson.

AND the said *Anne* by *J. S.* her attorney comes and defends the force and injury when, *Non assumpsit*
Et c. and says, that the said *Thomas* and *Mary* ought not to have their action afore- within six
 said thereof against her, because she says, that she did not assume upon herself at any time years before
 within six years next before the day of the issuing of the original writ of them the said the original.
Thomas and *Mary*, in manner and form as the said *Thomas* and *Mary* above against her
 complain: And this she is ready to verify: Wherefore she prays judgment if the said
Thomas and *Mary* ought to have their action aforesaid thereof against her, *Et c.*

And the said *Thomas* and *Mary* say, that they by any thing before alledged ought not *Repl' That*
 to be precluded from having their action aforesaid, because they say, that within six years administration
 now last past, to wit, on the said 4th day of *April* in the year of the Lord 1699 aforesaid, was granted
 the administration aforesaid was duly committed to the same *Mary* in the form aforesaid, such a day,
 to wit, at *Westminster* aforesaid, whereby this same action within those six years did accrue whereby, *Et c.*
 to the same *Thomas* and *Mary*: And this they are ready to verify: Wherefore they pray
 judgment, and their damages by reason of the premisses, to be adjudged to them, *Et c.*

The plaintiffs had judgment on a demurrer; which judgment was affirmed on a writ of error.

Peirce at the suit of Dunstar.

WHEN, *Et c.* and as to the first promise and assumption in the declaration of him *The entry of*
 the said *William* aforesaid above mentioned, he the same *Edward* prays judgment a final judg-
 of the declaration aforesaid, because he says, that the declaration aforesaid, and the matter ment in case
 in the same contained, are not sufficient in law to maintain the action of him the said after a de-
William aforesaid thereof against him the said *Edward* had; to which said declaration, as murrer.
 to the said first promise and assumption in the declaration of the said *William* above men-
 tioned, he the same *Edward* hath no necessity, nor is by the law of the land obliged in any
 manner, to answer: And this he is ready to verify: Wherefore for want of a sufficient de- Demurrer to
 claracion in this behalf, as to the said first promise and assumption in the declaration of him the first pro-
 the said *William* aforesaid above mentioned, he the same *Edward* prays judgment, and that mise.
 the said *William* may be precluded from having his action aforesaid, as to the first promise
 and assumption in the declaration of the said *William* aforesaid above mentioned thereof
 against him the said *Edward*, *Et c.* And as to the second, third and fourth promises and as- Non assumpsit
 sumptions in the declaration of him the said *William* aforesaid above likewise mentioned, to the others.
 the same *Edward* says, that he did not assume upon himself in manner and form as the
 said *William* hath above against him declared: And of this he puts himself on the country:
 And the said *William* thereof likewise, *Et c.*

And the said *William* says, that he by any thing by the said *Edward* above in pleading Joinder in de-
 alledged, as to the first promise and assumption in the declaration aforesaid above mention- murrer.
 ed, ought not to be precluded from having his action aforesaid thereof against him, because
 he says, that the declaration aforesaid, and the matter in the same contained, as to that
 promise and assumption, are good and sufficient in law to maintain the action of him the
 said *William* aforesaid thereof against him the said *Edward* had; which said declaration, and
 the matter in the same contained, he the same *William* is ready to verify and prove, as the
 court, *Et c.* And because the said *Edward* to that declaration doth not answer, nor hitherto
 in any wise deny it, he the said *W.* as before prays judgment and his damages, by reason of
 those premisses, to be adjudged to him: But because the court of the said Lord the King
 now here are not yet advised to give their judgment of and upon the premisses, whereof the
 parties aforesaid have put themselves on the judgment of the court, day therefore is given
 to the parties aforesaid before the Lord the King at *Westminster* until Friday next after the
 morrow of the Holy *Trinity* to hear their judgment of and upon those premisses, because
 the court of the said Lord the King now here thereof not yet, *Et c.* And as well to try the *Venue* award-
 issue aforesaid between the parties aforesaid above joined to be tried by the country, as to ed as well to
 inquire what damages the said *William* hath sustained by reason of the premisses aforesaid, try the issue as
 whereof the parties aforesaid have put themselves on the judgment of the court, if judgment to inquire of
 shall happen to be given thereon for the said *William* against the said *Edward Peirce*, let a *Et c.*
 jury thereon come before the Lord the King at *Westminster* on the said day; and who
 neither, *Et c.* to recognize, *Et c.* because as well, *Et c.* The same day is given to the parties
 aforesaid there, *Et c.* On which day before the Lord the King at *Westminster* come as well
 the said *William* as the said *Edward* by their attorneys aforesaid; and the said *William* hath
 acknowledged here in court, that he against the said *Edward*, as to the 2d, 3d and 4th pro-
 mises

Nolle prosequi
as to the issue.

Judgment for
the plaintiff
on the de-
murrer.

Inquiry a-
warded.

The Inquisi-
tion taken by
the bailiff of
a liberty.

mises and assumptions in his bill aforesaid above mentioned, will not farther prosecute; and as to the said first promise in the declaration aforesaid above mentioned, whereof the parties aforesaid have put themselves on the judgment of the court, because the court of the said Lord the King here are not yet advised to give their judgment of and upon the premises, day therefore is given to the parties aforesaid before the said Lord the King at *Westminster* until *Thursday* next after three weeks of *St. Michael* to hear their judgment thereon, because the court of the said Lord the King now here thereof not yet, &c. On which day before the Lord the King at *Westminster* come the parties aforesaid by their attornies aforesaid; upon which the premises aforesaid, as to the first promise and assumption in the declaration aforesaid above mentioned, whereof the parties aforesaid have put themselves on the judgment of the court, being seen, and by the court of the said Lord the King now here more fully understood, because it seems to the court of the said Lord the King now here, that the declaration aforesaid, and the matter in the same contained, as to that first promise and assumption, is good and sufficient in law to maintain the action of him the said *W.* aforesaid thereof against the said *E.* had, it is considered, that the said *W.* ought to recover his damages against the said *E.* But because the court of the said Lord the King now here do not know what damages the said *W.* hath sustained by reason of the premises aforesaid, therefore the sheriff is commanded, that by the oath of 12 good and lawful men of his bailiwick he diligently inquire what damages the said *W.* hath sustained, as well by reason of the non-performance of the first promise and assumption aforesaid, as for his costs and charges by him about his suit in this behalf expended; and the inquisition which, &c. send to the said Lord the King at *Westminster* on *Friday* next after the Octave of *St. Hillary* under the seal, &c. and the seals, &c. together with the writ of the said Lord the King to him therefore directed: The same day is given to the said *W.* there, &c. On which day here comes the said *W.* by his attorney aforesaid; and the sheriff, to wit, *J. B. Esq.* now returns here, that for the execution of the writ aforesaid, he sent to the high steward of the liberty of *Bury St. Edmonds* in the county aforesaid, who hath the full execution of all writs and warrants to be executed within the liberty aforesaid and the return of the same; which said high steward, to wit, *Thomas Lord Jermyn* hath returned to the same sheriff a certain inquisition taken before the same high steward at *Ixworth* in the county aforesaid on the 21st day of *April* last past, by virtue of the warrant of the said sheriff on the writ aforesaid to the said high steward directed, by the oath of 12, &c. whereby it is found, that the said *W.* hath sustained damages by reason of the premises, besides his costs and charges by him about his suit in this behalf expended, to 20*l.* and for those costs and charges to 40*s.* And because the justices here will advise themselves of and upon the premises before they give judgment thereon, day is given to the said *W.* here until on the morrow of the Holy *Trinity* to hear their judgment thereon, because the same justices here thereof not yet, &c. On which day here comes the said *W.* by his attorney aforesaid; and hereupon the premises being seen, and by the justices here fully understood, it is considered, &c.

Higgons against Baldwin.

Challenge to
the array at
the assizes for
want of hun-
dredors.
13 E. 1. c. 30.

4 A. c. 16.
§ 6.

AND the said justices of assize before whom, &c. have sent here their record in these words, &c. Afterwards the day and place within contained, before *T. Jones*, Knt. chief justice of the Lord the King of the Bench, and *Job Charlton*, Knt. one of the justices of the said Lord the King of the Bench, justices of the said Lord the King, assigned to take assizes in the county of *Heriford*, by the form of the statute, &c. comes as well the within named *G. H. Gent.* as the within written *T. Baldwin* by their attornies within contained; and the jurors of the jury, whereof mention is within made, being called likewise come; and the said *T. Baldwin* challenges the array of the panel hereto annexed, because he says, that the jurors aforesaid in the panel aforesaid named at the time of the array of the panel aforesaid were returned of the venue of *Watford*, otherwise *Waterford*, in the record within written mentioned; and that the town of *Waterford* aforesaid is, and at the time of the array of the panel aforesaid was, within the hundred of *Cashoe* in the county aforesaid; and that the jurors aforesaid in the panel aforesaid named have nothing, nor at the time of the array of the panel aforesaid, or ever after, had any thing, nor had any of them at the time of the array of the panel aforesaid, or ever after hitherto, any thing within the hundred of *Cashoe* aforesaid, neither were the jurors aforesaid in the panel aforesaid named at the time of the array of the panel aforesaid, or ever after hitherto commorant, nor was any of them at the time of the array of the panel aforesaid, or ever after hitherto commorant within the hundred of *Cashoe* aforesaid: And because the said *George Higgons* cannot deny the challenge aforesaid by the said *Thomas Baldwin* as aforesaid made, the said *Thomas Baldwin* prays that the panel aforesaid may be quashed: And because the justices here will advise themselves of and upon the premises before they give judgment thereon, day is given to the parties aforesaid here until on the morrow of the Holy *Trinity* to hear their judgment thereon, because the same justices here thereof not yet, &c. On which day here comes

as well the said *George* as the said *Thomas* by their attornies aforesaid; and heretupon the premisses aforesaid been seen, and by the justices here fully understood, it is considered, that the panel of the jurors aforesaid be quashed, &c. And upon this the said *George* prays the writ of the Lord the King to the sheriff of the county aforesaid to be directed to cause to come anew 12, &c. and it is granted him, &c. Therefore the sheriff is commanded, *A venire de* that he cause to come here from the day of the Holy *Trinity* in three weeks anew 12, &c. *now awarded:* by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. On which day the jury between the parties aforesaid in the plea aforesaid was respited between them here until this day, to wit, from the day of *St. Michael* in three weeks then next following, unless the justices of the said Lord the King, assigned to take assises in the county aforesaid, by the form of the statute, &c. should first come on *Tuesday* the 10th day of *July* last past at the town of *Hertsford* in the county aforesaid: And now here on this day comes the said *George* by his attorney aforesaid; and the said justices of assise before, &c. have sent here their record in these words: Afterwards at the day and place within contained before, &c.

Tirrey and Duvall.

AND now on this day, to wit, *Wednesday* next after the Octave of *St. Hillary* in this Imparlance. same term, until which day the said *John Duvall* and *Elizabeth* his wife had leave to imparl to the bill aforesaid, and then to answer, &c. Before which day the said Lady Queen *Mary* departed this life, before the Lord the King at *Westminster* comes the said *William Tirrey* by his attorney aforesaid; and the said *John* and *Elizabeth*, altho' on the same day solemnly called do not come, nor say any thing in bar or preclusion of the action of the said *William* aforesaid, whereby the same *William* remains against the said *John* and *Elizabeth* therein undefended, &c. Therefore it is considered, that the said *William* do recover against the said *John* and *Elizabeth* the debt aforesaid, and also 31 s. for his damages which he hath sustained, as well by reason of the detention of that debt, as for his costs and charges by him about his suit in this behalf expended, to the said *William* by the court of the said Lord the King now here with his assent adjudged: And the said *John* and *Elizabeth* in mercy, &c.

Demise of the Queen.

Judgment by *nil dicit in debt.*

And the said *John* in his proper person comes and defends the force and injury when, &c. and prays leave to imparl to the bill aforesaid; and it is granted him, &c. And hereupon a day is given to the parties aforesaid before the Lord and Lady the King and Queen at *Westminster* until *Monday* next after the morrow of the Ascension of the Lord in this same term, to wit, to the said *John* to imparl to the bill aforesaid, and then to answer, &c. On which day before the Lord and Lady the King and Queen at *Westminster* comes the said *Elizabeth* by her attorney aforesaid; and the said *John*, altho' on the same day solemnly called, doth not come, nor say any thing in bar or preclusion of the action of the said *Elizabeth* aforesaid, whereby the same *Elizabeth* remains against the said *John* therein undefended, &c. Therefore it is considered, &c.

Nil dicit in debt of the same term with the declaration.

Incedon and The Dutcheffs of Hamilton.

ON which day before the Lord the King at *Westminster* comes the said *Robert* in his proper person; and the sheriff of *Middlesex*, to wit, *John Bull*, Knt. and *Thomas Ambrose*, Esq; on that day returns, that he by virtue of the writ aforesaid to him directed by *J. D.* and *W. M.* good and lawful men of his bailiwick, had given notice to the said Dutcheffs, that she should be before the Lord the King on the day aforesaid wheresoever, &c. Therefore it is considered, that she should be before the Lord the King on the day aforesaid wheresoever, &c. as he was commanded; and upon this the said *Robert* prays execution against the said Dutcheffs for the damages aforesaid, according to the force, form and effect of the recovery aforesaid, to be adjudged to him, &c. And the said Dutcheffs so warned on the fourth day of plea by *E. L.* her attorney likewise comes and prays oyer of the writ of *scire facias* aforesaid; and to her it is read in these words, to wit, *George*, &c. Which being read and heard, the same Dutcheffs says, that the said *Robert* ought not to have his execution aforesaid against her for the said 322 l. because she says, that there is not any such record of the judgment aforesaid and recovery aforesaid in the said court of the said Lord the King now here remaining, as the said *Robert* by his writ aforesaid hath above supposed: And this she is ready to verify: Wherefore she prays judgment if the said *Robert* ought to have his execution aforesaid for the damages aforesaid against her, &c.

A scire fact returned on a scire facias quare executionem non in error.

No such record.

Repl' that
there is such
record.

And the said *Robert* says, that he by any thing by the said *Dutchess* above in pleading alledged ought not to be precluded from having his execution aforesaid for the damages aforesaid against the said *Dutchess*, because he says, that there is such record of the judgment and recovery of the damages aforesaid as by the writ aforesaid is above supposed, as appears in this present *Easter* term, Roll 234. and he prays that the term and roll aforesaid may be by the court of the said Lord the King now here seen and inspected: And because the court of the said Lord the King now here are not yet advised to give their judgment of and upon the premisses, day therefore is given to the parties aforesaid before the Lord the King wheresoever, &c. to hear their judgment thereon, because the court of the said Lord the King now here thereof not yet, &c.

Fowler at the suit of Tappenden.

Not guilty.

The entry of a
view accord-
ing to 4 Ann.
c. 16. § 8.

Trial at bar.
Pract. Reg.
655.

WHEN, &c. and say, that they are not guilty thereof: And of this they put themselves on the country: And the said *J. Tappenden*, &c. likewise, &c. Therefore let a jury thereon come before the Lady the Queen at *Westminster* on *Thursday* next after the Octave of the Purification of the Blessed Virgin *Mary*; and who neither, &c. to recognize, &c. because as well, &c. The same day is given to the parties aforesaid there, &c. On which day before the Lady the Queen at *Westminster* come the parties aforesaid by their attornies aforesaid; and the sheriff of *Kent* aforesaid, to wit, *S. Stringer*, Esq; hath returned the writ of *venire facias* aforesaid in all things served and executed, together with a panel of the names of the jurors to the same writ annexed, whereof none, &c. Therefore the sheriff of the county aforesaid is commanded, that he distrain the jurors aforesaid by all the lands, &c. and that of the issues, &c. so that he may have their bodies before the Lady the Queen at *Westminster* on *Wednesday* next after a month of *Easter*, to make the jury aforesaid between the parties aforesaid in the plea aforesaid; and in the mean time, according to the form of the statute in such case made and provided, the sheriff of the county aforesaid is commanded, that he have six out of the first 12 of the jurors aforesaid, or some greater number of them at the several places in question, on the 6th day of *April* next ensuing, who then and there shall have the matters in question shewn to them by *W. Back*, Gent. and *P. Brooke*, Gent. appointed by the court of the said Lady the Queen before the Queen herself, to shew the several places aforesaid to the jurors aforesaid, and do cause to be returned to the said Lady the Queen at *Westminster* on the said day how he shall have executed the writ aforesaid: The same day is given to the parties aforesaid there, &c. On which day before the Lady the Queen at *Westminster* come the parties aforesaid by their attornies aforesaid; and the sheriff of the county aforesaid, to wit, *S. Stringer*, Esq; hath returned, that by virtue of the writ aforesaid on the sixth day of *April* in the 7th year of the said Lady the Queen, he had caused a view of the said places in question to be had by *T. Twisden*, Bart. &c. being the major part out of the first 12 jurors first impanelled and in the writ aforesaid named, at the said several places in question, to the said jurors then and there shewn by the said *W. Back* and *P. Brooke* by the court of the said Lady the Queen as aforesaid appointed, according to the tenor of the writ aforesaid; and that the residue of the execution of the writ aforesaid appears in a certain panel to that writ annexed: And hereupon the jurors of that jury, to wit, *T. Style*, Bart. and the said *T. Twisden*, Bart. &c. being called likewise come, who to say the truth of the premisses being elected, tried and sworn, As to the whole trespass in the declaration above second mentioned to be committed on the 28th day of *October* in the 6th year of the reign of the Lady the now Queen, and at sundry days and times between the said 28th day of *October* and the exhibition of the bill aforesaid, in the said place called the *East grounds*, and also as to the trespass in the declaration aforesaid above third mentioned to be committed on the 12th day of *August* in the 6th year aforesaid, at the parish of *Tonge* aforesaid, say on their oath, that the said *John Fowler*, &c. are thereof guilty in manner and form as the said *J. Tappenden*, &c. above against them secondly and thirdly complain; and they assess the damages of them the said *J. Tappenden*, &c. by reason of those several trespasses, besides their costs and charges by them about their suit in this behalf expended, to 50*l.* and for those costs and charges to 20*s.* And as to the whole trespass in the declaration aforesaid first mentioned to be committed, on the said 12th day of *August* in the 6th year aforesaid, and at several days and times between the said 12th day of *August* and the exhibition of the bill aforesaid in the said places called *Great Burlett*, otherwise *Barlett*, *Little Burlett*, otherwise *Barlett Shawfleet* and *Stanlett*, the jurors aforesaid on their oath aforesaid farther say, that the said *J. Fowler*, &c. are not guilty thereof, nor is any of them guilty thereof, in manner and form as the said *J. F.* &c. have above for themselves in pleading alledged: But because the court of the said Lady the Queen now here are not yet advised to give their judgment of and upon the premisses, day therefore is given to the parties aforesaid before the Lady the Queen at *Westm.* until *Friday* next after

after the morrow of the Holy Trinity to hear their judgment of and upon those premisses, because the court of the said Lady the Queen now here thereof not yet, &c. On which day before the Lady the Queen at Westminster come the parties aforesaid by their attornies aforesaid; whereupon all and singular the premisses being seen, and by the court of the said Lady the Queen now here more fully understood, and mature deliberation being thereon had, it is considered, as to the several trespasses whereof the said John Fowler, &c. by the judgment for jury aforesaid in form aforesaid are convicted, that the said John Tappenden, &c. do recover the plaintiff against the said John Fowler, &c. the damages aforesaid by the jurors aforesaid in form for part, and aforesaid assessed, and also 229 l. for their costs and charges aforesaid to the same John Tappenden, &c. with their assent, by the court of the said Lady the Queen now here of increase rest. adjudge; which said damages in the whole amount to 280 l. It is also considered, that the said John Tappenden, &c. be in mercy for their false plaint against the said John Fowler, &c. as to the trespass aforesaid whereof the said John Fowler, &c. are above in form aforesaid acquitted: And the same John Fowler, &c. do go thereof without day, &c.

Tanner at the suit of Blisse.

AND the said Edward Tanner by B. H. his attorney comes and defends the force and injury when, &c. and says, that the said Richard ought not to have or maintain his action aforesaid thereof against him, because he says, he hath fully administred all and singular the goods and chattels which belonged to the said Anthony Tanner at the time of his death in his hands to be administred, except goods and chattels to the value of 17 l. And that the same Edward hath no goods or chattels which belonged to the said Anthony at the time of his death in his hands to be administred, nor had on the day of the exhibition of the bill aforesaid of him the said Richard, nor ever after, except the goods and chattels aforesaid to the value of the said 17 l. And this he is ready to verify: Wherefore the same Edward prays judgment if the said Richard ought to have or maintain his action aforesaid against him, except for the said 17 l. &c.

And the said Richard as to the said 17 l. which the said Edward acknowledges to have in his hands to be administred prays judgment, and the same 17 l. together with his damages, by reason of the detention of the same 17 l. to be adjudged to him, &c. Therefore it is considered, that the said Richard do recover against the said Edward the said 17 l. of the goods and chattels which belonged to the said Anthony: And the said Edward in mercy, &c. And as to the residue of his damages aforesaid, the said Richard says, that he by any thing before alledged ought not to be precluded from having his action aforesaid thereof against him the said Edward, because as to the said plea of the said Edward above pleaded, the same Richard says, that on the day of the exhibition of the bill of him the said Richard, to wit, on the 7th day of May in the 13th year of the reign of the said Lord the King, the said Edward had besides and above the goods and chattels aforesaid to the value of the said 17 l. sundry goods and chattels which belonged to the said Anthony at the time of his death in his hands to be administred to the value of the residue of his damages, whereby he might have satisfied the said Richard thereof, to wit, at Southwarke aforesaid in the county aforesaid: And this he prays may be inquired of by the country: And the said Edward likewise, &c. And because it is convenient that there be but one taxation of damages in this behalf, if judgment happens to be given for the said Richard for the residue of the damages aforesaid, therefore let the taxation of the damages for the non-payment of the said 17 l. which the said Edward acknowledges to have in his hands to be administred, stay until the issue aforesaid between the parties aforesaid above joined be tried and determined: And to try that issue let a jury thereon come before the Lord the King at Westminster on day next after and who neither, &c. to recognize, &c. because as well, &c. The same day is given to the parties aforesaid there, &c.

Partridge at the suit of Baldwin.

AND the said defendant in his proper person comes and defends the force and injury, and says, that the court of the said Lord the King here ought not to have cognifance of the plea aforesaid, because he says, that the cause of action aforesaid of the said plaintiff accrued to the same plaintiff at Epping in the county of Essex out of the jurisdiction of this court, and not in Southwarke in the county of Surry, or elsewhere within the jurisdiction of this court: And this the same defendant is ready to verify: Wherefore he doth not suppose that the court of the said Lord the King here will or ought to have or hold farther cognifance of the plea aforesaid, &c.

*Edw. Northey.
Estwick*

Etterick at the suit of Fellow.

Tender plead-
ed.
Pract. Reg.
562, 565.

The conclu-
sion is in bar
of damages
only.
Lutw. 368.

AND the said *Edward* by *A. B.* his attorney comes and defends the force and injury when, &c. and as to the second promise and assumption in the declaration aforesaid mentioned, and also as to 54*l.* 14*s.* 7*d.* parcel of the said 150*l.* in the said assumption in the declaration aforesaid first mentioned, says, that he did not assume upon himself in manner and form as the said *John* hath above against him declared: And of this he puts himself on the country: And as to 95*l.* 5*s.* 5*d.* residue of the said 150*l.* the same *Edward* says, that the said *John* ought not to recover his damages by reason of the non-payment of the said 95*l.* 5*s.* 5*d.* because he says, that he the same *Edward* from the time of the making of the promise and assumption aforesaid in the declaration aforesaid first mentioned above supposed to be, was and yet is ready to pay to the same *John* the said 95*l.* 5*s.* 5*d.* and before the day of the exhibition of this bill, to wit, 22d day of *September* in the 13th year of the reign of the Lord *William* the Third, now King of *England*, &c. at the parish of *St. Mary le Bow* in the ward of *Cheape*, offered to pay to the same *John* the said 95*l.* 5*s.* 5*d.* Nevertheless the same *John* the said 95*l.* 5*s.* 5*d.* of the said *Edward* then and there refused to receive; and the same *Edward* the said 95*l.* 5*s.* 5*d.* ready to be paid to the said *John* here in court produces, if the said *John* will receive the said 95*l.* 5*s.* 5*d.* And this he is ready to verify: Wherefore he prays judgment if the said *John* ought to have his damages by reason of the non-payment of the said 95*l.* 5*s.* 5*d.* against him, &c.

Edw. Northey.

Repl'.

And the said *John*, as to the said plea of the said *Edward* as to the said first promise and assumption in the declaration aforesaid mentioned for the said 95*l.* 5*s.* 5*d.* above pleaded says, that he by any thing by the said *Edward* in the same plea before alledged ought not to be precluded from having his action aforesaid thereof against him the said *Edward*, because he says, that he the said *Edward* did not offer to the same *John* the said 95*l.* 5*s.* 5*d.* in manner and form as the said *Edward* hath above thereof in pleading alledged: And this he prays may be inquired of by the country: And the said *Edward* likewise, &c. Therefore, &c.

This plea must be pleaded before imparlance, and to a *quantum meruit*, but must be from the time of the making of the promise, &c. So that if the money was demanded afterwards, this plea will be against the defendant; and then the best way is to move to pay the money into court, and let the plaintiff proceed at his peril for the rest.

Fellow against Harpur and another.

Hill. 10 & 11 W. 3. in C. B. The entry of a filazer's bill.

Assumpsit by
original a-
gainst two
executors for
beer and ale
sold to the
testator.

London, to wit. THE sheriffs were commanded that they should put by surety and safe pledges *Nathaniel Harpur* late of *London*, goldsmith, and *Mary Ward* late of *London*, spinster, executors of the will of *Margaret Ward*, widow, deceased, that they should be here from the day of *St. Michael* in three weeks, to answer to *Thomas Fellow*, *Samuel Fellow* and *Jacob Edge* in a plea, why whereas the said *Margaret* in her life-time, to wit, on the 17th day of *September* in the 10th year of the reign of the Lord *William* the Third, now King of *England*, &c. at *London* in the parish of *St. Mary le Bow* in the ward of *Cheape*, was indebted to the same *T. S.* and *J.* in 50*l.* of lawful money of *England*, for beer and ale by the same *T. S.* and *J.* to the said *M.* in her life-time before that time sold and delivered; and the said *M.* being so therein indebted to the same *T. S.* and *J.* the said *M.* in consideration thereof assumed upon herself, and to the same *T. S.* and *J.* then and there faithfully promised, that she the said *M.* the said 50*l.* to the same *T. S.* and *J.* when she should be thereto after required, would well and truly pay and satisfy: And whereas also (so on a *quantum meruit* so) but have altogether refused to pay them, or any wife satisfy them for the same, and the said *N.* and *M.* do yet refuse to pay them the same, to the damage of the said *T. S.* and *J.* 50*l.* as they say; and that the same sheriffs should have

have there this writ, &c. On which day the said T. S. and J. by A. P. their attorney come, and the said N. and M. on the 4th day of plea being solemnly called did not come; and the *Nichil.* sheriffs then returned, that they have nothing, &c. Wherefore the sheriffs were commanded, that they should take them, if, &c. and them safely, &c. so that the same sheriffs might have *Capias award-* their bodies here from the day of St. Martin in 15 days to answer, &c. On which day the same T. S. and J. by their attorney afore said came and offered themselves the 4th day of plea against the said N. and M. in the plea afore said; and the said N. and M. did not come; and the sheriffs have now returned, that the said N. and M. are not found, &c. Therefore as be- *Return.* fore the sheriffs were commanded, that they should take the said N. and M. if, &c. so that the same sheriffs might have their bodies here on this day, to wit, on the Octave of St. Hillary, to answer, &c. On which day come the same T. S. and J. by their attorney afore said, and have offered themselves the 4th day of plea against the said N. and M. in the plea afore said: *An alias a-warded.* And the said N. by M. F. his attorney comes, &c. and the said M. being solemnly called doth not come; and the sheriffs have now returned, that the said M. is not found, &c. And upon this the said T. S. and J. by their attorney afore said complain, why whereas the said M. in her life-time, to wit, on the 17th day of September in the 10th year of the reign of the Lord William the Third, now King of England, &c. at London in the parish of St. Mary le Bow in the ward of Cheape, was indebted to the same T. S. and J. in 50 l. of lawful money of England, for beer and ale by the same T. S. and J. to the said M. in her life-time before that time sold and delivered; and the said M. being so therein indebted to the same T. S. and J. the said M. in consideration thereof assumed upon herself, and to the same T. S. and J. then and there faithfully promised, that she the said M. the said 50 l. to the same T. S. and J. when she should be thereto after required, would well and truly pay and satisfy: And whereas also the said M. in her life-time afterwards, to wit, on the said 17th day of September in the 10th year above said, at London afore said in the parish and ward afore said, in consideration that the said T. S. and J. at the special instance and request of the said M. had sold and delivered to the said M. 100 hogheads of beer and 100 hogheads of ale for the proper use and behoof of the said M. assumed upon herself, and to the same T. S. and J. then and there faithfully promised, that she the said M. so much money as the said 100 hogheads of beer and 100 hogheads of ale by the same T. S. and J. to the said M. so as afore said sold and delivered at the time of the sale and delivery of the same were reasonably worth, to the same T. S. and J. when she should be thereto after required, would well and truly pay and satisfy: And the said T. S. and J. in fact say, that the said 100 hogheads of beer and 100 hogheads of ale by them the said T. S. and J. to the said M. so as afore said sold and delivered, at the time of the sale and delivery of the same were reasonably worth 50 l. of lawful money of England; and thereof the said M. in her life-time, to wit, on the 18th day of September in the 10th year above said, at London afore said in the parish and ward afore said had notice: Nevertheless the said M. in her life-time, and the said N. and M. after the death of the said M. not regarding the several promises and assumptions of the said M. in her life in form afore said so as afore said respectively made, but contriving and fraudulently intending the same T. S. and J. in this behalf craftily and subtilly to deceive and defraud, the said several sums of money, or any penny thereof, to the same T. S. and J. or any of them, have not paid, altho' to do it as well the said M. in her life-time, to wit, the said 18th day of September in the 10th year above said, as the said N. and M. after the death of the said M. to wit, the 20th day of September in the 10th year above said, by the same T. S. and J. were required, to wit, at London afore said in the parish and ward afore said, but have altogether refused to pay them, or any wise to satisfy them for the same, and the said N. and M. do yet refuse to pay them the same, whereby the said T. S. and J. say that they are prejudiced, and have damage to the value of 50 l. And therefore they produce the suit, &c. *Breach of promise.*

And the said N. by the said M. F. his attorney comes and defends the force and injury *Nil dicit.* when, &c. and says nothing in bar or preclusion of the action of the said T. S. and J. afore said, wherefore the same T. S. and J. ought to recover their damages by reason of the premisses: But because it is not known what damages the same T. S. and J. have sustained by reason of those premisses, the sheriffs are commanded, that by the oath of good and lawful men *An inquiry awarded.* of their bailiwick they diligently inquire what damages the same T. S. and J. have sustained, as well by reason of the premisses afore said as for their costs and charges by them about their suit in this behalf expended; and the inquisition which, &c. certify here from the day of Easter in 15 days under the seal, &c. and the seals, &c. On which day here come the same T. S. and J. by their attorney afore said; and the sheriffs, to wit, J. S. Kt. and W. G. Kt. now re- *The return.* turn here a certain inquisition taken before them at the Guildhall of the city of London, situate in the parish of St. Lawrence in the Old Jewry in the ward of Cheape of the same city, on the 17th day of April in the 11th year of the reign of the Lord the now King, by the oath of 12, &c. whereby it is found that the same T. S. and J. have sustained damages by reason of the premisses, besides their costs and charges by them about their suit in this behalf expended, to 46 l. 15 s. 3 d. and for those costs and charges to 26 s. 8 d. Therefore it is considered, that the same T. S. and J. do recover against the said N. and M. the damages afore said by the inquisition afore said in form afore said found, and also 12 l. 8 s. 1 d.

Judgment a-
gainst both.

Only one
mercy.

to the same T. S. and J. at their request for their costs and charges aforesaid by the court here of increase adjudged; which said damages in the whole amount to 60 l. 10 s. of the goods and chattels which belonged to the said *Margaret Ward* at the time of her death, being in the hands of the said N. and M. to be administered, if they have so much thereof in their hands; and if they have not so much in their hands, then the said 26 s. 8 d. and the said 12 l. 8 s. 1 d. of the proper goods and chattels of the said N. And the said N. in mercy, &c.

Signed 26 May 1699.

The Earl of King'sale and Compton, Knt.

1 Show. 272.
Did not pro-
mise within
six years, &c.

WHEN, &c. and says, that the said *Francis* ought not to have his action aforesaid against him, because he says, that he hath not at any time within six years next before the day of the issuing of the original writ of him the said *Francis* assumed upon himself in manner and form as the said *Francis* above against him complains: And this he is ready to verify: Wherefore he prays judgment if the said *Francis* ought to have his action aforesaid against him, &c.

Repl' that he
did.

And the said *Francis* says, that he by any thing before alledged ought not to be precluded from having his action aforesaid against him the said *Almerick*, because he says, that he on the 23d day of *January* in the third year of the reign of the Lady the now Queen sued out his original writ in the plea aforesaid against the said *Almerick*, and that the said *Almerick* within six years before the said day of the issuing of the said original writ of him the said *Francis* did assume upon himself in manner and form as the said *Francis* above against him complains: And this he prays may be inquired of by the country: And the said *Almerick* likewise, &c. Therefore, &c.

Hath not
broke cove-
nant.

AND the said *John Knapp* by *Thomas Harvey* his attorney comes and defends the force and injury when, &c. and says, that he hath not broke his covenants aforesaid, nor any of them, in manner and form as the said *William Symphon* above thereof against him complains: And of this he puts himself on the country.

Did not de-
mise.

AND the said *Thomas* by *Pocklington* his attorney comes and defends the force and injury when, &c. and says, that the said *William* ought not to have or maintain his action aforesaid against him the said *Thomas*, because he says, that the said *William Pentlowe* did not demise to the said *Thomas Wilson* the tenements aforesaid with the appurtenances in manner and form as the said *William Pentlowe* above thereof against him complains: And of this he puts himself on the country: And the said *William* thereof likewise, &c. Therefore let a jury thereon come before the Lady the Queen at *Westminster* on *Wednesday* next after three weeks of the Holy *Trinity*; and who neither, &c. to recognize, &c. because as well, &c. The same day is given to the parties aforesaid there, &c.

The testator
did not pro-
mise.

WHEN, &c. and says, that the said *Joseph Wilson* in his life-time did not assume upon himself in manner and form as the said *William* above thereof against him complains: And of this he puts himself on the country: And the said *William* thereof likewise, &c. Therefore let, &c.

Did not pro-
mise within
six years be-
fore the bill
filed.

1 Show. 272.

AND the said *William* by *J. A.* his attorney comes and defends the force and injury when, &c. and says, that the said *John Lord Somers*, *John Hawles* and *John Lilly*, ought not to have or maintain their action aforesaid thereof against him, because he says, that he hath not at any time within six years next before the day of the exhibition of the bill of them the said *John Lord Somers*, *John* and *John*, assumed upon himself in manner and form as the same *John Lord Somers*, *John* and *John*, above against him complain: And this he is ready to verify: Wherefore he prays judgment if the said *John Lord Somers*, *John* and *John*, ought to have or maintain their action aforesaid thereof against him, &c.

L. Agar.

And

And the said *John Lord Somers, John Hawles and John Lilly* say, that they by any thing Repl^d that he by the said *William* above in pleading alledged ought not to be precluded from having did. their action aforesaid thereof against him the said *William*, because they say, that the bill of them the said *John Lord Somers, John Hawles and John Lilly*, was exhibited on the 28th day of *May* in the second year of the reign of the Lady *Anne*, now Queen of *England, &c.* and that the said *William* hath within six years next before the day of the exhibition of the said bill, assumed upon himself in manner and form as the said *John Lord Somers, John Hawles and John Lilly* above thereof against him complain: And this they pray may be inquired of by the country: And the said *William* thereof likewise, *&c.* Therefore, *&c.*

T. Cartbew.

WHEN, *&c.* and saith, that he did not assume upon himself in manner and form as Suggestion, the said *Arthur* above against him complains: And of this he puts himself on the that the *veritas* country: And the said *Edward* likewise, *&c.* And because the issue aforesaid between the arises in the parties aforesaid above joined ought to be tried by the men of the county palatine of *Chester*, county pala- to wit, of the neighbourhood of *Tarvin* aforesaid in the said county of *Chester* where the ought to be writ of the Lord the King doth not run, and not elsewhere: Therefore let the record of the tried by a plea aforesaid be sent to the justices of the said Lord the King of the said county of *Chester*, so that the same justices may by the writ of the Lord the King of that county duly jury there, to be made, cause the sheriff of that county to be commanded, that he cause to come Booth 9, 95, before the same justices of the said Lord the King of the county of *Chester* aforesaid twelve 100, 167, free and lawful men of the neighbourhood of *Tarvin* aforesaid in the said county of *Chester*, 203, 229, by whom, *&c.* and who neither, *&c.* to recognize, *&c.* because as well, *&c.* And when 283. the averment and issue aforesaid shall be made and tried, that then the said justices may send the record of the plea aforesaid, with all that which shall therein in the court of the said Lord the King there before them be done, to the said Lord the King at *Westminster* on a certain day, which the same justices of the county palatine aforesaid shall to the parties aforesaid in the same court there prefix, to hear thereof their judgment, *&c.* And the said *Arthur* is order'd, that he prosecute with effect at the peril, *&c.*

AND because before *Wednesday* next after 15 days of *Easter* last past, until which day Demise of the the said defendant had leave to imparl to the bill aforesaid, and then to answer, *&c.* King. before the said late Lord the King at *Westminster*, the said Lord King *William* the Third departed this life; and before the same day the plea aforesaid was adjourned by the writ of Adjournment the Lady *Anne*, now Queen of *England*, of common adjournment, before the same Lady of the term. the Queen at *Westminster* until to and on this day, to wit, from the day of *Easter* in three Pract. Reg. weeks in this same term; and now on this day, to wit, from the said day of *Easter* in three 36. weeks before the Lady the Queen at *Westminster* comes as well the said plaintiff by his attorney aforesaid, *&c.*

AND now on this day, to wit, *Wednesday* next after three weeks of *Easter* in this same Another way. term, until which day the said *Thomas Poweis*, otherwise *Powis*, had leave to imparl to the bill aforesaid, and then to answer, *&c.* before which day the said Lord *William* the Third, late King of *England, &c.* departed this life; and also before the same day the plea aforesaid was adjourned by the writ of the Lady *Anne*, now Queen of *England*, of common adjournment, before the same Lady the Queen at *Westminster* until from the day of *Easter* in three weeks, before the Lady the Queen at *Westminster* comes as well the said *John Hill* by his attorney, *&c.*

WHEN, *&c.* and prays *oyer* of the writing obligatory aforesaid; and to him it is Appearance read, *&c.* He prays also *oyer* of the condition of the same writing; and to him on the day in it is read in these words: The condition of this obligation is such, that if the above the C. B. bound *Philip Parsons* shall appear before the justices of the Lord the King at *West- where the minster* from the day of *St. Michael* in three weeks, to answer to *Elizabeth Fancott* brought in in a plea of trespass, and also in a plea of trespass on the case on promise, to the da- the R. B. mage of the said *Elizabeth* 20*l.* *&c.* then this present obligation shall be void, other- wise shall stand and remain in its full force and strength; which being read and heard, the same *Philip* says, that the said *Robert* and *Henry* their action aforesaid thereof against him

him ought not to have or maintain, because he says, that after the making of the writing obligatory aforesaid, and before the day of the exhibition of the bill aforesaid, to wit, from the day of *St. Michael* in three weeks, in the condition aforesaid above mentioned, he the same *Philip Parsons* did appear before the justices of the said Lord the King at *Westminster* aforesaid to answer to the said *Elizabeth Fancott* in the said plea of trespass, and also in the plea of trespass on the case, on promise, to the damage of the said *Elizabeth* 20 l. according to the form and effect of the recognisance aforesaid: And this he is ready to verify by the record in the court of the Lady the Queen before the justices of the Lady the Queen of the Bench at *Westminster* remaining: Wherefore he prays judgment if the said *Robert* and *Henry* ought to have or maintain their action aforesaid thereof against him, &c.

Repl' that
there is no
such record.

And the said *Robert* and *Henry* say, that they by any thing by the said *Philip* above in pleading alledged ought not to be precluded from having their action aforesaid thereof against him, because they say, that there is not any such record of the appearance by the said *Philip* made, before the justices of the Lady the Queen of the Bench aforesaid remaining, as the same *Philip* above by pleading hath alledged: And this they are ready to verify: Wherefore they pray judgment and their debt aforesaid, together with their damages, by reason of the detention of that debt, to be adjudged to them, &c.

Rejoinder,
that there is.

And the said *Philip* as before says, that there is such record of the appearance of him the said *Philip* before the justices of the said Lady the Queen remaining as the same *Philip* above by pleading hath alledged: And this he is ready to verify by that record: And the said *Philip* is order'd to have that record before the Lady the Queen at *Westminster* on day next after at his peril: The same day is given to the said parties there, &c.

Den assault.

AND the said *William* by *John Allen* his attorney comes and defends the force and injury when, &c. and as to the force and arms, and whatever that is against the peace of the said Lady the now Queen, and also the wounding and maiming in the declaration aforesaid specified, the same *William* says, that he is not guilty thereof: And of this he puts himself on the country: And the said *Edmund* thereof likewise, &c. And as to the residue of the trespass aforesaid above by him the said *William* supposed to be done, the same *William* says, that the said *Edmund* ought not to have or maintain his action aforesaid thereof against him, because he says, that the said *Edmund* at the same time when the residue of the trespass aforesaid is above supposed to be done, at *London* aforesaid in the parish and ward aforesaid, with force and arms, &c. on him the said *William* did make an assault, and him the said *William* then and there would have beat, wounded and abused, unless he the said *William* had then and there immediately defended himself against the said *Edmund*, wherefore the said *William* did then and there defend himself against the said *Edmund*; and so the same *William* says, that if any damage or mischief then and there happen'd to the said *Edmund*, it was from the proper assault of him the said *Edmund* on him the said *William*, and in the defence of him the said *William*: And this the same *William* is ready to verify: Wherefore he prays judgment if the said *Edmund* ought to have or maintain his action aforesaid thereof against him.

Payment
pleaded after
the day.

AND the said *Jane Goodwyn* by *John Allen* her attorney comes and defends the force and injury when, &c. and prays oyer of the writing obligatory aforesaid; and to her it is read in these words, to wit, Know all men by these presents, that we *Thomas Sleigh* of and *Micab Goodwyn* of *Leek* in the county aforesaid, blacksmith, are held and firmly bound to *William Charlton* in 200 l. of lawful money of *England*, to be paid to the said *William*, or his certain attorney, executors, administrators or assigns; to which said payment well and truly to be made we bind ourselves, and each of us by himself for the whole and in the whole, our and each of our heirs, executors and administrators, firmly by these presents, sealed with our seals. Dated the 13th day of *February* in the 11th year of the reign of our Lord *William* the Third now, by the grace of God, of *England*, *Scotland*, *France* and *Ireland* King, defender of the faith, &c. and in the year of the Lord 1699. She likewise prays oyer of the condition of the same writing; and to her it is read in these words, to wit, The condition of this obligation is such, that if the above-bounden *Thomas Sleigh* and *Micab Goodwyn*, they, or either of them, their heirs, executors or administrators, do well and truly pay, or cause to be paid, unto the above-named *William Charlton*, his heirs, executors, administrators or assigns, the full and just sum of 100 l. of lawful money of *England*, with interest at five pounds *per cent.* at or upon the 13th day of *February*

February next ensuing the date hereof, without fraud or farther delay, that then this present obligation to be void, or else to stand and remain in full force, power, strength, effect and virtue: Which being read and heard, the same *Jane* says, that the said *William* ought not to have or maintain his action aforesaid thereof against her, because she says, that the said *Thomas Sleigh*, who in the writing obligatory aforesaid was jointly bound with the said *Micah* her late husband, after the said 13th day of *February* in the 11th year of the reign of the Lord *William*, late King of *England*, &c. and before the day of the exhibition of the bill aforesaid, to wit, on the 20th day of *October* in the 7th year of the reign of the now Queen, paid to the said *William* the said 100*l.* in the condition aforesaid mentioned, and all the interest therefore then due, according to the form and effect of the condition aforesaid, to wit, at *Leek* aforesaid in the county aforesaid: And this she is ready to verify: Wherefore she prays judgment if the said *William* ought to have or maintain his action aforesaid thereof against her, &c.

A. c. 16.
§ 12.

AND the said *William Grover* by *Benjamin Hensbaw* his attorney comes and defends the force and injury when, &c. and as to the force and arms, and whatever that is against the peace of the said Lady the now Queen, the same *William Grover* says, that he is not guilty thereof: And of this he puts himself on the country: And the said *William Richardson* likewise, &c. And as to the residue of the trespass and assault aforesaid above supposed to be committed, the same *William Grover* says, that the said *William Richardson* ought not to have or maintain his action aforesaid thereof against him, because he says, that the said *William Richardson* and one *Richard Grisbrooke* on the day and year aforesaid in the declaration aforesaid above mentioned, at *Lewes* aforesaid in the county aforesaid, in and upon one *John Hodge* in the peace of God and of the said Lady the Queen then and there being did make an assault, and him did beat, wound and abuse, so that his life was despaired of: Whereupon the same *William Grover*, as well to preserve the peace of the said Lady the Queen as to separate the said *William Richardson* and *Richard Grisbrooke* from farther strife, and for the preservation of the life of the said *John Hodge*, did gently lay his hands on the said *W. Richardson*: And the same *W. Grover* farther says, that immediately after the laying of his hands on him the said *W. Richardson* in form aforesaid, and for the cause aforesaid done, the said *W. Richardson* thereupon then and there on him the said *W. Grover* did make an assault, and him would have beat, wounded and abused; wherefore the said *William Grover* against the said *William Richardson* did then and there defend himself, and says, that if any damage or mischief then and there happened to the said *William Richardson*, it was from the proper assault of him the said *William Richardson* in form aforesaid committed, and in defence of him the said *William Grover*, which is the same assault, beating, wounding and abusing, whereof the said *William Richardson* above now complains: And this he is ready to verify: Wherefore he prays judgment if the said *William Richardson* ought to have his action aforesaid thereof against him, &c.

San assault
specially.

AND the said *William Traverne* by *John Lilly* his attorney comes and defends the force and injury when, &c. and as to the force and arms, and also the imprisonment and detention in prison of him the said *John White* for all the time aforesaid in the declaration aforesaid above mentioned, the same *William* says, that he is not guilty thereof: And of this he puts himself on the country: And the said *John* thereof likewise, &c. And as to the residue of the trespass aforesaid above supposed to be committed, the same *William* says, that the said *John* ought not to have or maintain his action aforesaid thereof against him, because he says, that the said *John* the day and year aforesaid in the declaration aforesaid above mentioned, at *Stanstead* aforesaid in the county aforesaid, with force and arms, &c. on him the said *William* did make an assault, and him the said *William* would then and there have beat, wounded and abused, unless he the said *William* had then and there immediately defended himself against the said *John*; wherefore the said *William* did then and there defend himself against the said *John*; and so the same *William* says, that the mischief or damage, if any then and there happen'd to the same *John*, it was from the proper assault of him the said *John*, and in the defence of him the said *William*: And this the same *William* is ready to verify: Wherefore he prays judgment if the said *John* ought to have or maintain his action aforesaid thereof against him, &c.

The like by
a constable.

Payment on
the day.

AND the said *Thomas* by *John Allen* his attorney comes and defends the force and injury when, &c. and prays *oyer* of the writing obligatory aforesaid; and it is read to him, &c. He prays likewise *oyer* of the condition of the same writing obligatory; and it is read to him in these words, to wit, The condition of this obligation is such, that if the above-bound *Sir Thomas Colepepyr* and *Robert Saunders*, or either of them, their or either of their heirs, executors or administrators, do well and truly pay, or cause to be paid, unto the above named *Elizabeth Harris*, her executors, administrators or assigns, the full sum of 206 l. of good and lawful money of *England* on the 11th day of *April* next ensuing the date hereof, then this obligation to be void, or else to remain in full force and virtue: Which being read and heard, the same *Thomas* says, that the said *Elizabeth* ought not to have or maintain her action aforesaid thereof against him, because he says, that the same *Thomas* did pay to the said *Elizabeth* the said 206 l. on the said 11th day of *April* next ensuing the date of the writing obligatory aforesaid, which he to the same *Elizabeth* on the same day ought to have paid, according to the form and effect of the said condition of the writing obligatory aforesaid, to wit, at *London* aforesaid in the parish and ward aforesaid: And this he is ready to verify: Wherefore he prays judgment if the said *Elizabeth* ought to have or maintain her action aforesaid against him the said *Thomas*, &c.

Pettyward and Kent.

Debt on bond
against two
executors.

MARY Pettyward, widow, complains of *John Kent*, Esq; and *Nicholas Fenn*, Gent. executors of the last will and testament of *R. Kent*, Esq; otherwise called *Richard Kent* of *Corsham* in the county of *Wilts*, Esq; being in the custody of the marshal of the *Marshalsey* of the Lord and Lady the King and Queen before the King and Queen themselves in a plea, that they render to her 2000 l. of lawful money of *England* which they unjustly detain from her, for this, to wit, that whereas the said *Richard* in his life-time, to wit, on the 25th day of *March* in the year of the Lord 1690, at *Westminster* in the county of *Middlesex*, by his certain writing obligatory, sealed with the seal of the said *Richard* in his life-time, and to the court of the said Lord and Lady the King and Queen now here shewn, the date whereof is the same day and year, did acknowledge himself to be held and firmly bound to the said *Mary* in the said 2000 l. to be paid to the said *Mary* when he should be thereto after required: Nevertheless the said *Richard* in his life-time, and the said *John* and *Nicholas*, or either of them, after the death of the said *Richard*, altho' often required, &c. the said 2000 l. to the same *Mary* have not yet paid, nor hath either of them paid, but the said *Richard* in his life-time did altogether refuse to pay them to the same *Mary*, and the said *John* and *Nicholas*, after the death of the said *Richard*, do yet refuse to pay them to the same *Mary*, and unjustly detain them, to the damage of the said *Mary* 20 l. And therefore she produces the suit, &c.

Judgment for
assets in fu-
ture.
8 Co. 134.
2 Sand. 226.

And because the same *Mary Pettyward* cannot deny but that the said *John* and *Nicholas* have not, nor on the day of the exhibition of the bill of her the said *Mary*, or ever after, had any goods or chattels which belonged to the said *Richard* at the time of his death, in their hands to be administered, sufficient to satisfy the same *Mary* her debt aforesaid, she the same *Mary* prays judgment, and her debt aforesaid, to be adjudged to her, to be levied on the goods and chattels which belonged to the said *Richard* at the time of his death, which shall hereafter come to the hands of the said *John* and *Nicholas* to be administered: Therefore it is considered, that the said *Mary* do recover against the said *John* and *Nicholas* her debt aforesaid, to be levied on the goods and chattels which belonged to the said *Richard* at the time of his death, and which shall hereafter come to the hands of them the said *John* and *Nicholas* to be administered: And the said *John* and *Nicholas* in mercy, &c.

The entry of
a bill of *Mid-*
dlex.

Midd', to wit. THE sheriff is commanded, that he take *Cornwall Bradshawe*, Knt. if he shall be found in his bailiwick, and him safely keep, so that he may have his body before the Lord and Lady the King and Queen at *Westminster* on Monday next after the Octave of *St. Hillary*, to answer to *Philip Burton*, Esq; in a plea of trespass; And have there then this precept.

By bill.

Henley.

On which day before the Lord and Lady the King and Queen at *Westminster* comes the said *Philip*

Philip Burton in his proper person; and the sheriff of *Middlesex*, to wit, *Thomas Lane*, Knt. and *Thomas Cooke*, Knt. returns, that the said *Cornwall Bradshawe*, Knt. is not found in his bailiwick; and the said *Cornwall* doth not come: Therefore as before the sheriff is commanded, &c.

AND of this he puts himself on the country: And the said master and keepers, or wardens and commonalty of the mystery or art of braziers thereof likewise, &c. And upon this the said master and keepers, or wardens and commonalty of the mystery or art of braziers say, that *Robert Breedon*, Knt. being now one of the sheriffs of the city of *London* aforesaid, is master of the said company of braziers, and for that reason the said master and keepers, or wardens and commonalty of the mystery or art of braziers, pray the writ of the Lord the King to cause to come before the Lord the King at *Westminster* 12, &c. to try the issue aforesaid above joined, to be directed to *Randolph Knipe*, Knt. the other sheriff of the city of *London* aforesaid: And because the said *Leonard Martin* doth not deny it, therefore the same *Randolph Knipe*, Knt. the said other sheriff of the city aforesaid, is commanded, that he cause to come before the Lord the King at *Westminster* on day next after twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. The same day is given to the parties aforesaid there, &c.

Suggestion that the plaintiff is one of the sheriffs of *London*, and the venire awarded to the other.

Ousnam and Gibson.

AND the said *John Ousnam* by *Thomas Harvey* his attorney comes and defends the force and injury when, &c. and says, that the said *Richard Gibson* ought not to have or maintain his action aforesaid thereof against him, because he says, that the bill aforesaid of the said *Richard* was exhibited on the 23d day of *October* in the 3d year of the reign of the Lady *Anne*, now Queen of *England*, &c. and not before; and that he the same *John* at any time within six years next before the exhibition of the said bill of him the said *Richard* was not guilty of the premises above charged on him, as the said *Richard* above thereof against him complains: And this the same *John* is ready to verify: Wherefore he prays judgment if the said *Richard* ought to have or maintain his action aforesaid thereof against him, &c.

Not guilty within six years.

21 Jac. c. 16. § 3.

AND the said *Thomas* in mercy, &c. Afterwards, to wit, on *Monday* next after three weeks of *St. Michael* in this same term, before the Lady the Queen at *Westminster* comes here into court *Shelley Wankford*, executor of the last will and testament of *Elizabeth Wankford* deceased, which said *Elizabeth* was executrix of the last will and testament of the said *Robert Wankford* her late husband also deceased, by *John Allen* his attorney, hereto specially constituted, and hath acknowledged that she is satisfied by the said *Thomas Cudmore* for the debt and damages aforesaid; therefore be the said *Thomas* for the said debt and damages thereof quit, &c. And the said *Shelley* produces here in court as well the letters testamentary of the said *Robert Wankford* aforesaid, whereby it sufficiently appears to the court here, that the said *Elizabeth* was the executrix of the will of the said *Robert Wankford*, and thereof had the administration, &c. as the letters testamentary of the said *Elizabeth* aforesaid; whereby it sufficiently appears to the court here, that he the said *Shelley* is the executor of the will of the said *Elizabeth*, and thereof hath the administration, &c.

Satisfaction acknowledged in debt.

AND the said *Richard Burgh* in his proper person comes and defends the force and injury when, &c. and upon this the said *Thomas Grice* prays that the said *Richard Burgh* to his declaration aforesaid may answer; and hereupon the said *Richard* prays leave to impart to the bill aforesaid of him the said *Thomas* until *Saturday* next after the Octave of the Purification of the Blessed Virgin *Mary*; and to him it is granted, &c. The same day is given to the said *Thomas* there, &c. On which day before the said Lord the King at *Westminster* comes the said *Thomas Grice* by his attorney aforesaid; and the said *Richard Burgh*, altho' on the same day solemnly called, doth not come, nor say any thing in bar or preclusion of the action aforesaid of him the said *Thomas Grice*, but hath made default, whereby the same *Thomas Grice* remains against the said *Richard* therein undefended: Therefore it is considered, that the said *Thomas Grice* do recover against the said *Richard Burgh* his debt aforesaid, and also for his damages which

Nil dicit in debt of the same term with the declaration.

which he hath sustained as well by reason of the detention of that debt, as for his cost and charges by him about his suit in this behalf expended, to the same *Thomas Grice* by the court of the said Lord the King now here with his assent adjudged: And the said *Richard Burgh* in mercy, &c.

Crosse and Lewis.

Nonfuit in replevin for want of a replication to the avowry.

TO be adjudged to him, &c. And upon this the said *Thomas Crosse* prays that the said *John Lewis* may plead in bar to the avowry aforesaid of him the said *Thomas*; whereupon day next after is given by the court of the said Lady the Queen now here to the said *John Lewis* to reply to the said plea of the said *Thomas Crosse*, and the said *John Lewis* is order'd by the court of the said Lady the Queen now here to reply on the same day to that plea at his peril: On which day before the Lady the Queen at *Westminster* comes the said *Thomas* by his attorney aforesaid; and the said *John Lewis*, tho' on the same day solemnly called, doth not come, nor hath replied to the plea of the said *Thomas Crosse*, nor farther prosecuted his writ aforesaid against the same *Thomas Crosse*: Therefore it is considered, that the same *John Lewis* do take nothing by his writ aforesaid, but that he and his pledges to prosecute, to wit, *John Doe* and *Richard Roe*, be therefore in mercy, and the said *Thomas Crosse* go thereof without day, &c. And it is farther considered by the court of the said Lady the Queen now here, that the said *Thomas Crosse* do recover against the said *John Lewis* for his costs and charges by him about his defence in this behalf sustained, to the said *Thomas Crosse*, by the court of the said Lady the Queen, according to the form of the statute thereof lately made and provided, adjudged, &c. And that the said *Thomas Crosse* have execution, &c.

Judgment for the defendant.
7 H. 8. c. 4.
31 H. 8. c. 19.

Bagnley and Chiswell.

Nonfuit for not declaring in the mayor's court.

BE it remember'd, that on the 10th day of *February* in the fifth year of the reign of the Lady *Anne*, now Queen of *England*, &c. at the court of the said Lady the Queen, then held before *Robert Bedingfield*, Knt. mayor of the city of *London*, and the aldermen of the said city, in the chamber of the *Guibald* of the same city, situate in the parish of *St. Michael Bassishawe* in the ward of *Bassishawe*, *London*, aforesaid, one *William Bagnley* in his proper person came, and then and there, according to the custom of the city aforesaid, affirmed in the same court his certain bill original against one *Richard Chiswell*, by the name of *Richard Chiswell* defendant, at the suit of him the said *William Bagnley* plaintiff, in a plea of trespass on the case to the damage of 5000*l*. And thereupon then and there the said *William Bagnley* found pledges to prosecute his bill original aforesaid against the same *Richard Chiswell*, to wit, *John Doe* and *Richard Roe*, citizens of *London*; which said *Richard Chiswell*, because he had nothing within the liberty of the city of *London* whereby according to the custom of the city aforesaid he could be summoned, as, &c. afterwards, to wit, on the 11th day of *February* in the fifth year aforesaid, by virtue of a certain precept of the said mayor and aldermen to one *Thomas Hewitt*, one of the serjeants at mace of the said mayor and aldermen, and minister of the court aforesaid, to him therefore made by the same serjeant at mace, was taken and arrested, and to the court aforesaid for the cause aforesaid brought, when he then and there found bail and was bailed by *Richard Chiswell* and *William Holtyer*, citizens of the city aforesaid, to have the body of the said *Richard Chiswell* at the court of the said Lady the Queen, before the said mayor and aldermen in the said chamber of the *Guibald* of the city aforesaid, on the 12th day of *February* aforesaid, according to the custom of the city aforesaid to be held, to answer to the said *William Bagnley* in the plea of his bill original aforesaid, according to the custom of the city aforesaid, and so from thence from court to court to the end of that plea; and the same day was then and there given by the same court to the said *William Bagnley* to be there, &c. At which said court before the said mayor and aldermen in the said chamber of the *Guibald* of the city aforesaid, on the said 12th day of *February*, according to the custom of the city aforesaid then held, the said *Richard Chiswell* in his proper person appeared, and put in his place *Edmund Whincop* his attorney, and by his same attorney offered himself against the said *William Bagnley* in the plea of the bill original aforesaid; but the same *William Bagnley*, altho' he was solemnly called in the court aforesaid, did not appear; whereupon, at the prayer of the said *Richard Chiswell* by his attorney aforesaid to the court aforesaid made, it was order'd by the same court, that the said *William Bagnley* should have until the court of the said Lady the Queen before the said mayor and aldermen in the said chamber of the *Guibald* of the city aforesaid on the twenty-eighth day of *April* in the sixth year of

of the reign of the said Lady the Queen of Great Britain, &c. according to the custom of the city aforesaid to be held, to declare peremptorily against the same Richard Chiswell; and the same day was then and there given by the same court to the said Richard Chiswell to be there, &c. At which said court of the said Lady the Queen before the said mayor and aldermen in the said chamber of the Guibald of the city aforesaid on the said 28th day of April, according to the custom of the city aforesaid held, the said Richard Chiswell by his attorney aforesaid appeared, and then and there in the same court, at the prayer of the said Richard Chiswell by his attorney aforesaid to the court aforesaid made, the said William Bagnley was solemnly called, and did not appear, but made default: Therefore it is considered by the court aforesaid, that the said William Bagnley do take nothing by his original bill aforesaid, and that the said Richard Chiswell do go thereof quit without day, &c. and that the said Richard Chiswell do recover against the said William Bagnley 8 s. 8 d. for his costs and charges by him in the defence of the suit aforesaid expended, &c.

Judgment for the defendant.

UNDER the seals, &c. and the seals, &c. On which day here comes the said Henry by his attorney aforesaid; and the sheriffs, to wit, John Bull, Knt. and Thomas Ambrose, Esq; now return here a certain inquisition before Peter Delme, Knt. and Harcourt Masters, Knt. late sheriffs of the city of London, their predecessors, at the Guibald of the city of London, situate in the parish of St. Lawrence in the Old Jewry in the ward of Cbeape of the same city on the 20th day of July last past, by the oath of 12, &c. taken, and by the same late sheriffs on their going out of their office to the same now sheriffs, together with the writ aforesaid, returned and delivered, whereby it is found that the said Henry hath sustained damage by reason of the premisses, besides his costs and charges by him about his suit in this behalf expended, to 67 l. 4 s. 9 d. and for those costs and charges to 27 s. 4 d. Therefore, &c.

An inquiry taken by a former sheriff and returned by his successor.

Yet of Easter term. Witness J. Holt, Knt.

London, to wit. BE it remember'd, that on Wednesday next after five weeks of Easter in this same term before the Lord the King at Westminster came Mary Vincent, widow, by Benjamin Henshaw her attorney, and produced in the court of the said Lord the King then there her certain bill against William Crey, Gent. in the custody of the marshal, &c. in a plea of debt; and there are pledges to prosecute, to wit, John Doe and Richard Roe; which said bill follows in these words, to wit, London, to wit, Mary Vincent, widow, complains of William Crey, Gent. being in the custody of the marshal of the Marshalsey of the Lord the King before the King himself, in a plea that he render to her 2000 l. of lawful money of England which he owes her and unjustly detains, for this, to wit, that whereas the said William on the 11th day of May in the 9th year of the reign of the Lord William the Third, now King of England, &c. at London aforesaid, to wit, in the parish of St. Mary le Bow in the ward of Cbeape, borrowed of the said Mary the said 2000 l. to be paid to the same Mary when he should be thereto after required: Nevertheless the said William, altho' often required, &c. the said 2000 l. to the same Mary hath not yet paid, but them to her hitherto to pay hath altogether denied, and yet doth deny, to the damage of her the said Mary 100 l. And therefore she produces the suit, &c.

The form of the entry of a judgment by confession on the roll.

And the said William by John Lilly his attorney comes and defends the force and injury when, &c. and says, that he cannot deny the action of the said Mary aforesaid, nor but that he doth owe to the said Mary the said 2000 l. in manner and form as the said Mary above against him complains: Therefore it is considered, that the said Mary do recover against the said William her debt aforesaid, and also 60 s. for her damages which she hath sustained, as well by reason of the detention of that debt as for her costs and charges by her about her suit in this behalf expended, to the same Mary by the court of the said Lord the King now here with her assent adjudged: And the said William in mercy, &c.

Signed 12 May 1697.

Roll 245.

Holt. Ventris.

6 H

Slate

Slate and Freeman.

Satisfaction
acknowledg-
ed.

Afterwards, to wit, on *Wednesday* next after 15 days of *Easter* in *Easter* term in the second year of the reign of the Lord the now King before the same Lord the King at *Westminster* comes the said *Thomas Slate* by *John Allen* his attorney, hereto specially constituted, and acknowledges he is satisfied by the said *John* for the damages, costs and charges aforesaid; therefore be the said *John Freeman* from those damages, costs and charges quit, &c.

A remission of
several da-
mages.

Whereby it is found, that the said *Andrew* hath sustained damages by reason of the premisses, besides his costs and charges by him about his suit in this behalf expended, on the first promise, to 20*l.* on the second promise to 1*d.* on the third promise to 1*d.* on the fourth promise to 1*d.* and on the fifth promise to 1*d.* and for those costs and charges to 20*s.* And hereupon the said *Andrew* freely here in court remits to the said *John* the said 1*d.* by reason of the non-performance of the said second promise and assumption, and also the said, &c. by the inquisition aforesaid in form aforesaid found; therefore be the said *John* of the said several one pennies quit: Therefore no regard being had to the said several one pennies in form aforesaid remitted, it is considered, that the said *Andrew* do recover against the said *John* the residue of the damages aforesaid by the inquisition aforesaid in form aforesaid found, and also for his costs and charges aforesaid to the same *Andrew* by the court of the said Lord the King now here with his assent of increase adjudged; which said damages in the whole amount to And the said *John* in mercy, &c.

Plea, had no-
thing in the
tenements on
several de-
mises.
Tho. 153.
2 Ven. 251.
Cro. Jac. 312.
Yelv. 227.

AND the said *John Lovegrove* by *John Allen* his attorney comes and defends the force and injury when, &c. and says, that the said *Mary Hugbes* ought not to have or maintain her action aforesaid thereof against him, because he says, that the said *Mary* at the times of the demises aforesaid above supposed to be made, had nothing in the several tenements aforesaid with the appurtenances, nor in any parcel thereof, whereof those demises are supposed to be made: And this he is ready to verify: Wherefore he prays judgment if the said *Mary* ought to have or maintain her action aforesaid thereof against him, &c.

A remission of
part of the
damages after
a verdict.

SAY on their oath, that the said *Thomas* did assume on himself in manner and form as the said *Edward* within against him complains; and they assess the damages of him the said *Edward*, by reason of the non-performance of the promise and assumption within mentioned, besides his costs and charges by him about his suit in this behalf expended, to 32*l.* 14*s.* 6*d.* and for those costs and charges to 53*s.* 4*d.* And hereupon the said *Edward* freely here in court remits to the said *Thomas* 10*l.* 10*s.* 6*d.* parcel of the damages aforesaid, and the costs and charges in this behalf expended, and prays judgment may be given for him for the residue of the damages aforesaid, &c. whereupon the 10*l.* 10*s.* 6*d.* being deducted and defaulting, it is considered, that the said *Edward* do recover against the said *Thomas* 24*l.* 17*s.* 4*d.* the residue of the damages aforesaid, by the jurors aforesaid in form aforesaid assessed, and also 11*l.* 2*s.* 8*d.* to the same *Edward* at his request for his costs and charges aforesaid by the court here of increase adjudged; which said damages in the whole amount to 36*l.* And the said *Thomas* in mercy: And be the said *Thomas* of the said 10*l.* 10*s.* 6*d.* so as aforesaid remitted quit, &c.

ON which day here comes the said *Gavin* by his attorney aforesaid; and the sheriffs, to wit, *John Fryer*, Bart. and *John Ward*, Knt. now return here a certain inquisition taken before them at the *Guibald* of the said city of *London*, situate in the parish of *St. Lawrence* in the *Old Jewry* in the ward of *Cheape* of the same city on the 2d day of *June* last past, by which it is found that the said *Gavin* hath sustained damages by reason of the non-performance of the first and second promise, besides his costs and charges by him about his suit in this behalf expended, to 2 *d.* and also damages by reason of the non-performance of the last promise, besides his costs and charges by him about his suit in this behalf expended, to 100 *l.* 8 *s.* 8 *d.* and for those costs and charges to 27 *s.* 4 *d.* And hereupon the said *Gavin* freely here in court remits to the said *T.* the said 2 *d.* on the first and second promise aforesaid by the inquisition aforesaid in form aforesaid found, and the costs and charges in that behalf expended, and prays judgment against the said *Thomas* for the said 100 *l.* 8 *s.* 8 *d.* the residue of the damages aforesaid, and for the said 27 *s.* 4 *d.* for the costs and charges aforesaid, by the inquisition aforesaid in form aforesaid found, and the increase of the same, to be adjudged to him, &c. Therefore the said 2 *d.* remitted being deducted and defaulted, it is considered, that the said *Gavin* do recover against the said *Thomas* the said 100 *l.* 8 *s.* 8 *d.* by reason of the non-performance of the said last promise by the inquisition aforesaid in form aforesaid found, and the said 27 *s.* 4 *d.* for the costs and charges aforesaid by the same inquisition in form aforesaid likewise found, and also 8 *l.* 4 *s.* to the same *Gavin* at his request for his costs and charges aforesaid by the court here of increase adjudged; which said damages in the whole amount to 110 *l.* And the said *Thomas* in mercy, &c. And be the said *Thomas* of the said 2 *d.* in form aforesaid deducted quit, &c.

A remission of damages after an inquiry.

W Hereby it is found, that the said governor and company of the bank of *England* have sustained damages by reason of the non-performance of the said first promise, besides their costs and charges by them about their suit in this behalf expended, to 1 *d.* and also damages by reason of the non-performance of the said second promise, besides their costs and charges by them about their suit in this behalf expended, to 532 *l.* 15 *s.* 3 *d.* and for those costs and charges to 27 *s.* 4 *d.* And hereupon the said governor and company freely here in court remit to the said *Thomas* the said 1 *d.* upon the first promise aforesaid by that inquisition in form aforesaid found, and pray judgment against the said *Thomas* for the said 532 *l.* 15 *s.* 3 *d.* the residue of the damages aforesaid, and for the said 27 *s.* 4 *d.* for the costs and charges aforesaid by that inquisition in form aforesaid found, and the increase of the same, to be adjudged to them, &c. Therefore the said 1 *d.* remitted being deducted and defaulted, it is considered, that the said governor and company do recover against the said *Thomas* the said 532 *l.* 15 *s.* 3 *d.* by reason of the non-performance of the said second promise by the inquisition aforesaid in form aforesaid found, and the said 27 *s.* 4 *d.* for the costs and charges aforesaid by the same inquisition in form aforesaid likewise found, and also 13 *l.* 7 *s.* 5 *d.* to the same governor and company at their request for their costs and charges aforesaid by the court here of increase adjudged; which said damages in the whole amount to 547 *l.* 10 *s.* And the said *Thomas* in mercy, &c. And be the said *Thomas* of that 1 *d.* in form aforesaid deducted quit, &c.

Another way.

But because the court of the said Lord the King now here are not yet advised to give their judgment of and upon the premises, whereof the parties aforesaid have put themselves on the judgment of the court, day therefore is given to the parties aforesaid before the Lord the King at *Westminster* until day next after to hear their judgment of and upon those premises, because the court of the said Lord the King now here thereof not yet, &c. And as to try as well the issue aforesaid between the parties aforesaid above joined to be tried by the country, as to inquire what damages the said governor and company of the bank of *England* have sustained by reason of the premises, whereof the parties aforesaid have put themselves on the judgment of the court, if judgment happens to be thereon given for the said governor and company of the bank of *England* against the said *Henry*, let a jury thereon come before the Lord the King at *Westminster* on the said day; and who neither, &c. to recognize, &c. because as well, &c. The same day is given to the parties aforesaid there, &c. On which day before the Lord the King at *Westminster* come as well the said governor and company of the bank of *England*, as the said *Henry* by their attorneys aforesaid; and the same governor and company of the bank of *England* have acknowledged here in court, that they will not farther prosecute against him the said *Henry*, as to the second promise and assumption in the declaration aforesaid above mentioned; and as to the said first promise and assumption in the declaration aforesaid above mentioned, whereof the parties aforesaid have put themselves on the judgment of the court, because the court of the said Lord the King now here are not yet advised to give their judgment of and upon those premises, day therefore is given to the parties aforesaid before the Lord the King at *Westminster* until day next

A venire awarded as well to try the issue as to inquire of damages, if, &c.

Nolle prosequi as to the issue.

next after to hear their judgment thereon, because the court of the said Lord the King now here thereof not yet, &c. On which day before the Lord the King at *Westminster* come the parties aforesaid by their attornies aforesaid; whereupon the premisses aforesaid, as to the first promise and assumption in the declaration aforesaid above mentioned, whereof the parties aforesaid have put themselves on the judgment of the court, being seen, and by the court of the said Lord the King now here more fully understood, because it seems to the court of the said Lord the King now here, that the declaration aforesaid, and the matter in the same contained, as to that first promise and assumption, are good and sufficient in law to maintain the action of them the said governor and company aforesaid thereof against the said *Henry Durlley* had, it is considered, that the said governor and company ought to recover their damages against the said *Henry*: But because it is unknown to the court of the said Lord the King now here what damages the said governor and company have sustained by reason of the premisses aforesaid, therefore the sheriffs are commanded, that by the oath of good and lawful men of their bailiwick they diligently inquire what damages the said governor and company have sustained, as well by reason of the non-performance of the first promise and assumption aforesaid, as for their costs and charges by them about their suit in this behalf expended; and the inquisition which, &c. return to the said Lord the King at *Westminster* on under the seals, &c. and the seals, &c. together with the writ of the said Lord the King to them therefore directed: The same day is given to the said governor and company there, &c.

Judgment for the plaintiffs on the demurrer.

An inquiry awarded.

Not their deed pleaded to articles.

WHEN, &c. and say, that the articles of agreement aforesaid in the declaration aforesaid above mentioned are not their deed: And of this they put themselves on the country: And the said *Francis* thereof likewise, &c. Therefore let a jury thereon come before the Lord the King at *Westminster* on *Wednesday* next after three weeks of *St. Michael*; and who neither, &c. to recognize, &c. because as well, &c. The same day is given to the parties aforesaid there, &c.

A commitment in execution in K.B. where the plaintiff hath received part of the debt.

AFTERWARDS, to wit, on *Thursday* next after a month of *St. Michael* thence next ensuing before the Lord the King at *Westminster* come the said governor and company in their proper persons, and acknowledge they have received of the said *Robert* 90 l. 14 s. 6 d. parcel of the debt and damages aforesaid; and the said *Robert* then present here in court, at the petition of the said governor and company, by the court of the said Lord the King now here, is committed to the custody of the marshal of the *Marshalsey* of the said Lord the King, before the King himself in execution for 111 l. 18 s. 6 d. being the residue of the debt and damages aforesaid.

Brooke and Taylor.

Non suit for not declaring after the cause removed by *habeas corpus*.

LONDON, to wit. HENRY Brooke the younger, who was arrested by virtue of a certain plaint levied in the court of the Lady *Anne* the late Queen, held at *London* aforesaid in the *Guibald* of the same city on the 23d day of *November* in the 12th year of the reign of the said late Queen, before *J. S. Esq.* one of the sheriffs of the city of *London* aforesaid, against him the said *Henry*, at the suit of *John Taylor*, in a certain plea of trespass on the case, to the damage of the said *John* 500 l. and for want of sufficient bail and security to answer to the said *John* in the plea aforesaid, was detained in the prison of the said late Lady the Queen, under the custody of the said *Joshua Sharpe, Esq.* then one of the sheriffs of the city aforesaid for the cause aforesaid: And afterwards, to wit, on the 10th day of *December* in the 12th year above said, the same *Henry*, by virtue of a certain writ of the said Lady the late Queen of *habeas corpus cum causa*, to the mayor and aldermen and the sheriffs of the city of *London* directed, and out of the court of the said Lady the late Queen, before the said late Queen herself at *Westminster* in the county of *Middlesex* issuing, by the said *Joshua Sharpe*, then one of the sheriffs of the city aforesaid, afterwards, to wit, on the same 10th day of *December* in the 12th year above said, was brought before *Robert Eyre, Knt.* one of the justices of the said Lady the late Queen, assigned to hold pleas in the court of the said late Queen, before the late Queen herself, at his chambers situate in *Chancery-lane, London*, and then and there for want of bail and security to answer to the said *John Taylor* in the plea aforesaid, was by the same justice committed to the custody of the marshal of the *Marshalsey* of the court of the said late Lady the Queen before the Queen herself, at the suit of the said *John Taylor* in the plea aforesaid; and the said *H.* so being in the custody of the marshal of the *Marshalsey* aforesaid, the said *J. T.* in the same

same court of the said late Lady the Queen before the Queen herself, his bill or declaration in any action whatever within three terms after the commitment of him the said Henry to the custody of the marshal of the *Marshalsey* aforesaid, at the suit of the said John as aforesaid hath not exhibited, nor his plaint aforesaid against the said Henry farther prosecuted: Therefore it is considered, that the said John do take nothing by his plaint aforesaid, but that he and his pledges to prosecute, to wit, *John Doe* and *Richard Roe*, be therefore in mercy, and the said Henry go thereof without day, &c.

Surry, to wit. **G** *George Hagar* was summoned to answer to *Anna Maria Symonds* in a plea, Nonfuit for why he took the goods and chattels of the said *Anna Maria*, to wit, not declaring in replevin. four tuns of rags, ginnels, ropes and seamens beads, and 500 weight of cordage, and them unjustly detained, against surety and pledges, &c. And whereon the same *George* hath in his proper person offered himself the fourth day against the said *Anna Maria* in the plea aforesaid, and the same *Anna Maria*, altho' solemnly called, doth not come, but hath made default, and was plaintiff: Therefore it is considered, that the said *George Hagar* do go thereof without day, &c. And that the said *Anna Maria* and her pledges to prosecute, to wit, *John Doe* and *Richard Roe*, be in mercy, &c. *Q.* The names of the pledges, &c. and that the said *George* have a return of the goods and chattels aforesaid, &c.

Therefore let a jury thereon come before the Lady the Queen at *Westminster* on *Wednesday* next after three weeks of the Holy Trinity, and who neither, &c. to recognize, &c. because as well, &c. The same day is given to the parties aforesaid there, &c. *A discontinuance after an issue.* Afterwards, to wit, on *Friday* next after the morrow of the Holy Trinity then next following before the Lady the Queen at *Westminster* comes the said *Thomas Tourle* by his attorney aforesaid; and the said *Samuel Swane* then and there his bill aforesaid against the said *Thomas* did not prosecute with effect, but hath permitted his suit aforesaid to be discontinued for want of prosecution, &c.

Minter and others at the suit of Brett.

WHEN, &c. and say, that they are not guilty of the premisses above charged on them, as the said *John Brett* above thereof against them complains: And of this trespass they put themselves on the country: And the said *John Brett* thereof likewise, &c. Therefore let a jury thereon come before the Lord the King at *Westminster* on *Saturday* next after and who neither, &c. to recognize, &c. because as well, &c. The same day is given *Penire award.* to the parties aforesaid there, &c. Afterwards the proceedings thereof between the parties aforesaid in the plea aforesaid being continued, by the jury being put thereof between them in respite before the Lord the King at *Westminster*, until *Wednesday* next after 15 days of *Easter*, unless the justices of the Lord the King, assigned to take assises in the county aforesaid, first come on *Monday* 24th day of *March*, at *Bury St. Edmonds* in the county aforesaid, by the form of the statute, &c. for want of jurors, &c. On which day before the Lord the King at *Westminster* come the parties aforesaid by their attornies aforesaid; and the said justices of the said Lord the King of assise, before whom, &c. have sent here their record before them had in these words, to wit, Afterwards the day and place within contained, before *P. King*, Knt. chief justice of the Lord the King of the Bench, and *R. Eyre*, Knt. one of the justices of the said Lord the King, assigned to hold pleas before the King himself, justices of the same Lord the King, assigned to take assises in the county of *Suffolk*, by the form of the statute, &c. come as well the within named *John Brett* as the within written *John Minter*, *Thomas Hamond* and *T. French*, by their attornies within contained; and the jurors of the jury, whereof mention is within made, being called likewise come, who to say the truth of the within contained, were elected, tried and sworn: And afterwards at the assises aforesaid in the county aforesaid, one of the jurors aforesaid, to wit, *A. H.* with the assent as well of the said *J. B.* as of the said *J. M.* *T. H.* and *T. F.* by the court here from the panel within written is wholly withdrawn, and the residue of the jurors aforesaid from giving any verdict of and upon the premisses, with the assent as well of the said *John Brett* as of the said *John Minter*, *T. Hamond* and *T. French*, by the justices aforesaid are discharged: Therefore the jury aforesaid are farther put in respite before the Lord the King at *Westminster* until *Friday* next after the morrow of the Holy Trinity, for want of jurors, &c. Therefore let the sheriff have the bodies, &c. and add ten such, &c. *The postea.* *A juror withdrawn in order to have a view.* *Dum tales.* The same day is given to the parties aforesaid there, &c. On which day before the Lord the King

at *Westminster* come the parties aforesaid by their attorneys aforesaid; and the sheriff hath not returned the writ thereof; therefore the jury aforesaid are farther put in respite before the Lord the King at *Westminster* until *Monday* next after three weeks of *St. Michael*, for want of jurors, &c. Therefore let the sheriff have the bodies, &c. and add ten such, &c. The same day is given to the parties aforesaid there, &c. On which day before the Lord the King at *Westminster* comes as well the said *J. Brett* as the said *J. Minter*, *T. Hamond* and *T. French*, by their attorneys aforesaid; and the sheriff, to wit, *J. C. Esq*; now returns, that as to the distraining the said *J. Pitches* and the rest of the jurors in the writ of the said Lord the King to him directed named, that writ was delivered to him so late, that by reason of the shortness of the time he could cause no execution to be made thereof; but as to the adding ten such, whereof mention was made in the same writ, the same sheriff now returns, that the execution thereof appears in a certain schedule to the same writ annexed, in which said schedule is contained a panel of the names of ten jurors, of whom none, &c. Therefore the jury aforesaid are farther put in respite before the Lord the King at *Westminster* until *Wednesday* next after 15 days of *Easter*, unless the justices of the said Lord the King, assigned to take assises in the county aforesaid, first come on *Monday* 26th day of *March* at *Bury St. Edmunds* in the county aforesaid, by the form of the statute, &c. for want of jurors, &c. therefore let the sheriff have the bodies, &c. The same day is given to the parties aforesaid there, &c. On which day before the Lord the King at *Westminster* comes the said *J. Brett* by his attorney aforesaid; and the said justices before whom, &c. have sent here their record before them had in these words, to wit, Afterwards at the day and place within contained, before *P. King*, Knt. chief justice of the Lord the King of the Bench, and *R. J. Esq*; this time associated to the same *P. King* and *T. Bury*, Knt. one of the barons of the Exchequer of the said Lord the King, justices of the said Lord the King, assigned to take assises in the county of *Suffolk*, by the form of the statute, &c. the presence of the said *T. Bury*, Knt. being not expected, by virtue of the writ of the said Lord the King of *Si non omnes*, &c. come as well the within named *J. Brett* as the within written *J. Minter*, *T. Hamond* and *T. French*, by their attorneys within contained; and the jurors of the jury, whereof mention is within made, being called likewise come, who to say the truth of the within contained being elected, tried and sworn, say on their oath, that the said *J. Minter*, *T. Hamond* and *T. French*, are guilty of the trespass aforesaid, as the said *J. Brett* within against them complains; and they assess the damages of the said *J. Brett* on the account within contained, besides his costs and charges by him about his suit in this behalf expended, to 81 l. and for those costs and charges to 40 s. And upon this the said *J. Brett* says, that after the last continuance of the plea aforesaid, to wit, after the said *Monday* next after and before the said *Wednesday* next after 15 days of *Easter*, to wit, on the first day of *April* in the second year of the reign of the said Lord the now King, the said *T. Hamond*, at the parish of *Nettlestead* aforesaid in the county aforesaid died, and this is not denied, therefore let all farther proceedings against the said *T. Hamond* cease; whereupon the said *J. Brett* prays judgment against the said *J. Minter* and *T. French* for the damages, costs and charges aforesaid, by the jury aforesaid in form aforesaid assessed, together with an increase of the same, to be adjudged to him, &c. Therefore it is considered, that the said *J. Brett* do recover against the said *J. Minter* and *T. French* the damages aforesaid by the jurors aforesaid in form aforesaid assessed, and also 77 l. for his costs and charges aforesaid to the same *J. Brett*, by the court of the said Lord the King now here with his assent of increase adjudged; which said damages in the whole amount to 160 l. &c.

And upon this before the said Lord the King at *Westminster* come the said *J. Minter* and *T. French* by *B. D.* their attorney, and produce here in the court of the said Lord the King before the King himself, a certain writ of error of and upon the judgment and premises aforesaid, which follows in these words, to wit, *George*, &c. To our justices, assigned to hold pleas before us, greeting: Because in the record and proceedings, and also in the rendition of the judgment of a plea which was in our court before us by bill, between *J. Brett* and *J. Minter*, *T. Hamond* and *T. French*, of a certain trespass to the same *J. Brett* by the said *J. T.* and *T.* committed, which said *T. Hamond* is dead, as it is said, a manifest error hath happened, to the great damage of them the said *J. Minter* and *T. French*, as by their complaint we have understood: We being willing that the error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, command you, that the record and proceedings aforesaid, which before us now remain, as it is said, being inspected, you farther cause to be done therein to correct that error, what of right and according to the law and custom of *England* shall be to be done. Witness Ourselves at *Westminster*, &c. And upon this the said *J. Minter* and *T. French* say, that in the record and proceedings aforesaid, and also in the rendition of the judgment aforesaid, there is manifest error, in this, to wit, that where by the record aforesaid in the court here now remaining it appears, that in the said *Hillary* term in the first year of the reign of the Lord the now King, the said *Thomas French*, one of the defendants in the plea aforesaid, in the same court here by *E. G.* his attorney appeared and pleaded to issue in the plea aforesaid: Nevertheless at the said time when the said *T. French* by his attorney aforesaid in form aforesaid pleaded,

The postea.

Verdict for the plaintiff.

Suggestion of the death of one of the defendants.

Judgment against the others.

Error coram nobis.

pleaded, the same *Thomas French* was under the age of 21 years, to wit, of the age of 20 years and one month and no more, in which case the said *Thomas French* by the law of the land could not constitute an attorney to defend or plead for him the said *Thomas French*, at the suit of the said *John Brett* in the plea aforesaid, but ought to have pleaded and defended in the same plea by his guardian: And because the said *Thomas French*, being under age, in form aforesaid by his attorney aforesaid, at the suit of the said *John Brett* hath pleaded and defended, and not by his guardian, as by law he ought; therefore in that there is manifest error: And this they are ready to verify: Wherefore they pray that the judgment aforesaid for that error may be reversed, annulled and held as intirely void, and that they to all things, which by reason of the judgment aforesaid they have lost, may be restored; and they pray the writ of the said Lord the now King to warn the said *John Brett* to be before the Lord the King to hear the record and proceedings aforesaid; and to them it is granted; whereby the sheriff of *Suffolk* is commanded, that by good, &c. he give notice to the said *John Brett*, that he be before the Lord the King on *Friday* next after the morrow of the *Holy Trinity*, to hear the record and proceedings aforesaid, if, &c. and farther, &c. The same day is given to the said *John Minter* and *Thomas French*, &c. On which day before the Lord the King at *Westminster* come the said *John Minter* and *Thomas French* by their attorney aforesaid; and the sheriff of the county aforesaid hath not returned thereof the writ, nor done any thing therein; and upon this the said *John Brett* by *John Allen* his attorney immediately comes and says, that for any reason of error aforesaid by the said *John Minter* and *Thomas French* above assigned, the judgment aforesaid ought not to be reversed, annulled or held as intirely void, because he says, that the said *Thomas French* at the time of his appearance and pleading to issue by his attorney aforesaid in form aforesaid, to wit, in *Hillary* term in the first year of the reign of the said Lord the now King, &c. was of the full age of 21 years and more, and not under the age of 21 years, as the said *John Minter* and *Thomas French* above thereof for themselves have alledged: And of this he puts himself on the country.

Nonage assigned.

Scire facias awarded.

Repl' full age.

And the said *John Minter* and *Thomas French* say, that the plea aforesaid by the said *John Brett* above in pleading alledged, and the matter in the same contained, are not sufficient in law to preclude them the said *John Minter* and *Thomas French* from the reversal and annulling of the judgment aforesaid; and that they the said *John Minter* and *Thomas* to that plea have no necessity, nor are by the law of the land obliged in any manner to answer; wherefore for want of a sufficient plea of the said *John Brett*, the same *John Minter* and *Thomas* pray judgment, and that the judgment aforesaid for the error aforesaid by them above assigned may be reversed, annulled and held as intirely void, and that they to all things, which by reason of the judgment aforesaid they have lost, may be restored; and for cause of this demurrer in law, the same *John Minter* and *Thomas*, according to the form of the statute in such case lately made and provided, do set down, and to the court here express these causes following, to wit, that in the plea aforesaid of him the said *John Brett* it is not alledged in what town or county or in what place the same *Thomas French* in the record of the judgment aforesaid mentioned was of full age, from whence any jury to try the issue thereon could arise or come, so that the said issue cannot duly or according to the course of law be tried, and that the said plea is informal, insensible, and contains in it false, incongruous and barbarous *Latin*.

Demurrer.

The causes.

And the said *John Brett*, for that he hath above in pleading alledged sufficient matter in his plea aforesaid to preclude the said *John Minter* and *Thomas* from the reversal and annulling of the judgment aforesaid, which he is ready to verify; which said matter the said *John Minter* and *Thomas French* do not deny, nor thereto in any wise answer, but that averment do altogether refuse to admit, prays judgment, and that the judgment aforesaid may be in all things affirmed, &c. And because the court of the Lord the King here are not yet advised to give their judgment of and upon the premisses, day therefore is given to the parties aforesaid before the Lord the King at *Westminster* until to hear their judgment thereon, because the court of the said Lord the King here thereof not yet, &c.

Joinder.

Judgment was given for the plaintiff.

Blue

Bluet and Saunders.

The entry of
a view before
trial accord-
ing to the old
way. C. B.

Juror with-
drawn.

ARE added anew, whose names are annexed to the panel within written, according to the form of the statute in such case made and provided; and the jurors so added anew, to wit, *John Roach, &c.* being called likewise come, who to say the truth of the within contained, together with the other jurors aforesaid hereto first impanelled and sworn, were elected, tried and sworn; and because the sheriff had not jurors enough to view the place in question, according to the command of the writ within written, and it seems convenient for the parties aforesaid, that a view of the place in question be farther had by more jurors before the trial of the issue aforesaid, therefore *A. Saunders*, the last of the jurors, aforesaid, by the command of the justices aforesaid, and with the assent of the parties aforesaid, from the panel aforesaid is withdrawn, and the residue of the jurors of the jury aforesaid from now giving any verdict on the within contained are discharged; therefore the jury aforesaid is farther respited here until from the day of the Holy Trinity in three weeks, for want of jurors, because none come: Therefore let the sheriff as before have the bodies, *&c.* and add ten such, *&c.* On which day here comes as well the said *Robert* as the said *Mary* and *William* by their attornies aforesaid; and the sheriff, to wit, *R. N. Esq;* now returns here, that as to distrain *Andrew Quick*, and the residue of the jurors in the writ of the Lord the King to him directed named, that writ was so late delivered to him, that by reason of the shortness of time he could cause no execution to be made thereof; but as to the adding ten such, whereof in the same writ mention was made, the same sheriff now returns here, that the execution thereof appear'd in a certain schedule to that writ annexed, in which said schedule is contained a panel of the names of ten such whereof none, *&c.* Therefore the jury aforesaid is farther respited here until from the day of St. Michael in three weeks, unless the justices of the said Lord the King, assigned to take assises in the county aforesaid, by the form of the statute, *&c.* first come on Monday the sixth day of August, at the castle of *Exon* in the county aforesaid, for want of jurors, *&c.* and let the sheriff distrain the jurors aforesaid by all the lands, *&c.* and that of the issues, *&c.* so that they be here, unless, *&c.* to make the jury aforesaid, *&c.* And now here on this day comes the said *Robert* by his attorney aforesaid; and the said justices of assise before whom, *&c.* have sent here their record in these words: Afterwards, *&c. (unto)* come, and on that jury are sworn; and because the residue of the jurors of the same jury have not appeared, therefore one from the by-standers, by the sheriff of the county aforesaid, hereto elected at the request of the said *Robert Bluet*, and by the command of the justices aforesaid, is added anew, whose name to the panel within written is annexed, according to the form of the statute in such case made and provided; and the juror so added anew, to wit, *Abraham Saunders* being called likewise comes, who to say the truth of the within contained, together with the other jurors aforesaid hereto first impanelled and sworn, being elected, tried and sworn, say, *&c.*

Smith and Harmer.

A respondeat
ouster.

Default.

Inquiry a-
warded.
Mod. Caf.
142.
Salk. 315.

ON which day before the Lady the Queen at *Westminster* come the parties aforesaid by their attornies aforesaid; whereupon the premisses being seen, and mature deliberation being thereon had, it seems to the court of the said Lady the Queen now here, that the plea aforesaid by the said *John* in manner and form aforesaid above pleaded, and the matter in the same contained, are not sufficient in law for the court of the said Lady the now Queen to quash the bill aforesaid of him the said *Robert* against him the said *John* exhibited; wherefore the court of the said Lady the Queen now here do order, that the said *John* do farther answer to the bill aforesaid of him the said *Robert* on Friday next after the Purification of the Blessed Virgin *Mary*: The same day is given to the said *Robert* there, *&c.* On which day before the said Lady the Queen at *Westminster* comes the said *Robert* by his attorney aforesaid; and the said *John* doth not come, nor say any thing in bar or preclusion of the action aforesaid of him the said *Robert*, but makes default: Wherefore it is considered, that the said *Robert* ought to recover his damages against the said *John* by reason of the non-performance of the several promises and assumptions aforesaid: But because the court of the said Lady the Queen now here do not know what damages the said *Robert* hath by reason of the premisses in this behalf sustained, therefore the sheriff is commanded, that by the oath of 12 good and lawful men of his bailiwick he diligently inquire what damages the same *Robert* hath sustained, as well by reason of the non-performance

performance of the several promises and assumptions aforesaid, as for his costs and charges by him about his suit in this behalf expended; and the inquisition which, &c. return to the said Lady the Queen at *Westminster* on day next after under his seal and the seals of those by whose oath he shall take that inquisition, together with the writ of the said Lady the Queen to him therefore directed: The same day is given to the said *Robert* there, &c.

ON which day before the Lord and Lady the King and Queen at *Westminster* come Confession of the parties aforesaid by their attornies aforesaid; and upon this the said *Robert Payne* the action after issue: relinquishing his averment by him the said *Robert* above pretended, says, that he cannot deny the action of him the said *Ralph* aforesaid, nor but that the writing aforesaid is his deed, nor but that he owes to the said *Ralph Widrington* the said 100*l.* in manner and form as the said *Ralph* hath above against him declared; and doth expressly confess, that the declaration aforesaid is in all things true: Therefore it is considered, that the said *Ralph* do recover against the said *Robert* his debt aforesaid, and also 53*s.* for his damages which he hath sustained, as well by reason of the detention of that debt, as for his costs and charges by him about his suit in this behalf expended, to the same *Ralph* by the court of the said Lord and Lady the King and Queen now here with his assent adjudged: And the said *Robert* in mercy, &c.

WHICH being read and heard, the same *Thomas* says, that the said *Elizabeth* ought Conditions not to have or maintain her action aforesaid thereof against him, because he says, performed. that he the said *Thomas* did pay to the said *Elizabeth* all and singular the sums of money on the said feasts in the same condition above limited, which he to her on the same several feasts ought to have paid, according to the form and effect of that condition, to wit, at *Steving* aforesaid in the county aforesaid: And this he is ready to verify: Wherefore he prays judgment if the said *Elizabeth* ought to have or maintain her action aforesaid thereof against him, &c.

And the said *Elizabeth* says, that she by any thing by the said *Thomas* above in plead- Repl'. ing alledged ought not to be precluded from having her action aforesaid thereof against him, because by protesting, that the said *Thomas* hath not paid to the same *Elizabeth* any sum of money of the said several sums of money on any feast of those feasts in the condition aforesaid above specified, as the said *Thomas* above by pleading hath alledged, for plea the same *Elizabeth* says, that the said *Thomas* did not pay to her 40*s.* on the feast of Breach. the Annunciation of the Blessed Virgin *Mary* in the year of the Lord 1711, which he on that feast ought to have paid, according to the form and effect of that condition: And this she is ready to verify: Wherefore she prays judgment and her debt aforesaid, together with her damages by reason of the detention of that debt, to be adjudged to her, &c.

And the said *Thomas* says, that he did pay to the said *Elizabeth* the said 40*s.* on the Rejoinder. said feast of the Annunciation of the Blessed Virgin *Mary*, which he the said *Thomas* on that feast ought to have paid, according to the form and effect of the condition aforesaid: And of this he puts himself on the country: And the said *Elizabeth* thereof likewise, &c. Therefore let a jury thereon come before the Lady the Queen at *Westminster* on *Wednesday* next after three weeks of the Holy *Trinity*; and who neither, &c. to recognize, &c. because as well, &c. The same day is given to the parties aforesaid there, &c.

WHEN, &c. and prays oyer of the writing aforesaid; and to him it is read, &c. Payment on the day. He prays also oyer of the condition of the same writing; and to him it is read in these words: The condition of this obligation is such, that if the above bound *Thomas Gliffe*, *Francis Parker* and *William Lattimer*, or any of them, their or any of their executors or administrators, or any of them, do and shall well and truly pay, or cause to be paid, unto the above named *John Kendall*, his executors, administrators or assigns, the full and just sum of 6*l.* 9*s.* 6*d.* of good and lawful money of *England*, in manner and form following, (that is to say) the sum of 3*l.* 7*s.* parcel thereof, at or upon the 5th day of *Feb.* next ensuing the date hereof, and the sum of 3*l.* 2*s.* 6*d.* more residue thereof, upon the 24th day of *June* next also ensuing the date hereof, then this obligation to be void, and of

none effect; but if default be made of payment of either of the said sums, on either of the said days whereon the same ought to be paid as aforesaid, then to be and remain in full force, strength and virtue: Which being read and heard, the same *Francis* says, that the said *Mary* ought not to have or maintain her action against him, because he says, that he the same *Francis* and the said *William Lattimer* in the condition aforesaid mentioned, after the said 5th day of *February* in the same condition mentioned, and in the life-time of him the said *John Kendall*, and before the day of the issuing of the original writ of her the said *Mary*, to wit, on the 12th day of *April* in the fifth year of the reign of the Lady *Anne* the now Queen, at *Kettering* aforesaid, paid to the said *John Kendall* the said principal debt 6*l.* 9*s.* 6*d.* in the condition aforesaid likewise mentioned, and the whole interest then due: And this, &c. Wherefore, &c.

Repl'.

And the said *Mary* says, that she by any thing before alledged ought not to be precluded from having her action aforesaid, because she says, that the said *Francis* and the said *William Lattimer* did not pay to the same *John Kendall* in his life-time the said principal debt 6*l.* 9*s.* 6*d.* in the condition aforesaid mentioned, and the whole interest therefore due, in manner and form as the said *Francis* hath above in pleading alledged: And this she prays may be inquired of by the country: And the said *Francis* likewise, &c. Therefore the sheriff is commanded, that he cause to come here on the Octave of the Purification of the Blessed *Mary* 12, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.

Lickfeild at the suit of Rapley.

Oyer of the bond to indemnify the plaintiff for being bail for the defendant.

Not damnified.

WHEN, &c. and prays oyer of the writing obligatory aforesaid; and to her it is read, &c. She prays likewise oyer of the condition of the same writing obligatory; and to her it is read in these words, to wit, The condition of the above obligation is such, that whereas the above named *George Rapley*, at the special instance and request of the above bounden *Henry Lickfeild*, is to become bound or bail in his Majesty's court of King's Bench for the appearance the next term, or when the Lord Chief Justice shall order, of *Elizabeth Lickfeild* and *Agnes Lickfeild*, who stand charged with the stealing away of one *Anne Stilwell* an heiress; if therefore the said *Henry Lickfeild*, his heirs, executors and administrators, shall from time to time, and at all times hereafter, save, defend, keep harmless and indemnify the said *George Rapley*, his executors and administrators, of and from all damages, charge, trouble and incumbrance, that may any way happen thereby, that then this obligation to be void, or else to remain in full force and virtue in law: Which being read and heard, the same *Anne* says, that the said *Lucy* ought not to have or maintain her action aforesaid thereof against her, because she says, that the said *George* in his life-time, nor the said *Lucy* his executrix after the death of him the said *George*, from the time of the making of the writing obligatory aforesaid hitherto were not damnified, nor was either of them damnified concerning or by reason of any matter, cause or thing in the condition of the writing obligatory aforesaid mentioned: And this the same *Anne* is ready to verify: Wherefore she prays judgment if the said *Lucy* ought to have or maintain her action aforesaid thereof against her, &c.

Easter 34 C. 2. Roll 248.

Scandalum magnatum.
4 Co. 12. b.

3 E. 1. c. 34.

Surry, to wit. *James* Earl of *Brecknock* and Duke of *Ormond* in the kingdom of *Ireland*, steward of the household of the now Lord the King, and one of the nobles and peers of this kingdom of *England*, who as well for the Lord the King as for himself prosecutes, complains of *William Hetberington* in the custody of the marshal, &c. for this, to wit, that whereas in a statute made in the parliament of the Lord *Richard*, late King of *England*, the Second, after the conquest, held at *Gloucester* in the second year of his reign, among other things, it is ordained and straightly defended, that none be so hardy to devise, speak or to tell any false news, lies, or other such false things of prelates, dukes, earls, barons, and other nobles and great men of the realm, nor of the chancellor, treasurer, clerk of the privy seal, steward of the King's house, justices of the one bench or of the other, and of other great officers of the realm, whereof discord or any slander might rise within the same realm; and he that doth the same should have and incur the pain another time ordained thereof by the statute of *Westminster* the first, as in the same statute more fully is contained: Nevertheless the said *William Hetberington*, not regarding the statute aforesaid, on the day of in the thirty-third year of the reign of

of the Lord *Charles* the Second, now King of *England*, &c. at S. in the county of *Surry* aforesaid, out of his premeditated malice and envy, in the presence and hearing of very many faithful subjects of the said Lord the now King, with an intent to bring him the said Earl of *B.* in danger of losing his life, he the said Earl of *Brecnock* being then and yet, and for ten years and more now last past continually hitherto, one of the nobles and great men of this kingdom of *England*, and steward of the King's house, the same *William* then and there falsely and maliciously said and asserted, that he the said Earl of *Brecnock* was guilty of high treason; and the same *William* then and there falsely and maliciously instigated sundry persons falsely to accuse him the said Earl of *Brecnock* of high treason: And whereas also afterwards, to wit, the same day and year abovesaid, at S. aforesaid in the county aforesaid, he the said *William* out of his farther premeditated malice and envy, and with an intent to defame him the said Earl, and bring him into hatred, slander and disgrace, being then and yet, and for all the time aforesaid continually hitherto as aforesaid, one of the nobles and great men of this kingdom of *England*, and steward of the King's house, and to cause him to lose his office of steward of the King's house, in the presence and hearing of very many of the faithful subjects of the said Lord the King then and there present, and hearing these false malicious news and horrible lies of the said Earl of *B.* then and there said, asserted, spoke, pronounced, and with a loud voice published in these *English* words following, to wit, The duke of *Ormond* (meaning him the said *James Earl of B.*) is a papist, and in the *Irish* plot, (meaning a certain wicked conspiracy against the said Lord the now King in the kingdom of *Ireland*) when in truth the same Earl of *B.* is not, nor ever was, a papist, nor guilty of any high treason or conspiracy against the said Lord the now King, whereby great slander and discord to the same Earl of *Brecnock* then there within the kingdom aforesaid are risen, and hereafter may arise, in contempt of the said Lord the now King, and against the form of the statute aforesaid, to the damage of the said *James Earl of Brecnock* 10000 *l.* And therefore he produces the suit, &c.

Chinnell and Sparkes.

Hill. 4 A. Roll 22.

Midd., to wit. **W**illiam *Chinnell* complains of *Charles Sparkes* in the custody of the Debt on a marshal, &c. in a plea, that he render to him 23 *l.* 2 *d.* of law-judgment after verdict. ful money of *England*, which he owes him and unjustly detains, for this, to wit, that whereas the said *William Chinnell*, otherwise, to wit, in *Easter* term in the fourth year of the reign of the Lady *Anne*, now Queen of *England*, &c. in the court of the said Lady the Queen before the Queen herself, the same court then being at *Westminster* in the county of *Middlesex*, by the judgment of the said court did recover against the said *Charles*, by the names of *Charles Sparkes*, 23 *l.* 2 *d.* which to the same *William* in the same court of the said Lady the Queen before the Queen herself at *Westminster* aforesaid in the county of *Middlesex* aforesaid were adjudged for his damages which he had sustained, as well by reason of a certain trespass by him the said *Charles* on him the said *William* then lately committed, as for his costs and charges by him the said *William* about his suit in that behalf expended, whereof the same *Charles* is convicted, as by the record thereof in the same court of the said Lady the Queen before the Queen herself, at *Westminster* aforesaid in the county of *Middlesex* aforesaid remaining, more fully is manifest and appears; which said judgment yet remains in its full force and effect not satisfied or reversed; and the same *William* hath not yet sued out his execution on the judgment aforesaid in form aforesaid recovered, whereby an action hath accrued to the same *William* to demand and have of the said *Charles* the said 23 *l.* 2 *d.* Nevertheless the said *Charles*, altho' often required, &c. the said 23 *l.* 2 *d.* to the same *William* hath not yet paid, but hitherto to pay him the same hath altogether refused, and yet doth refuse; whereby the said *William* says that he is prejudiced, and hath damage to the value of 30 *l.* And therefore he produces the suit, &c.

Afterwards

The entry of
an *elegit* and
award thereof
into a county
palatine and
several coun-
ties.

13 E. 1. 18.

Afterwards, to wit, on day next after in *Hillary* term in the 7th year of the reign of the Lord *George* now King of *Great Britain*, &c. before the King himself at *Westminster* comes here into court the said *Elizabeth* in her proper person, and by the form of the statute in such case lately made and provided, chooseth to be deliver'd to her all the goods and chattels of the said *George B.* saving only his oxen and beasts of his plough, and likewise the one half of all and singular the lands and tenements of the said *George* in the county palatine of the Lord the King of *Chester*, and in the county palatine of the Lord the King of *Lancaster*, and also in the county of *Derby*, to hold the goods and chattels aforesaid as her proper goods and chattels, and the one half of the lands and tenements aforesaid to her the said *Elizabeth* and her assigns as her freehold, according to the form of the statute aforesaid, by a reasonable price and extent, until she shall thereout fully levy the debt and damages aforesaid; and she prays the writs of the said Lord the now King to the chamberlain of the county palatine of *Chester*, and to the chancellor of the county palatine of *Lancaster*, and to the sheriff of the county of *Derby*, in form aforesaid to be directed; and to her they are granted returnable before the said Lord the King at *Westminster* on day next after then next ensuing: The same day is given to the said *Elizabeth* there, &c. On which day before the Lord the King at *Westminster* comes the said *E.* in her proper person; and the said chamberlain of the county palatine of *Chester* aforesaid, and the chancellor of the county palatine of *Lancaster* aforesaid, and the said sheriff of the county of *Derby* have not returned the several writs aforesaid, nor have nor hath any of them done any thing therein; and thereupon the said *Elizabeth* as before prays several writs of the said Lord the now King to the said chamberlain of the county palatine of *Chester*, and to the chancellor of the county palatine of *Lancaster*, and to the sheriff of the county of *Derby*, in form aforesaid to be directed; and to her they are granted returnable before the Lord the King at *Westminster* on day next after On which day before the Lord the King at *Westminster* comes the said *Elizabeth* in her proper person; and the said chancellor of the county palatine of *Lancaster*, and the said sheriff of the county of *Derby*, have not returned the several writs aforesaid, or either of them, nor have they, or either of them, done any thing therein; and the said chamberlain of the county palatine of *Chester* hath returned, that by virtue of the writ aforesaid to him directed, he had by another writ under the seal of the county palatine of *Chester* aforesaid given it in command to the sheriff of the county palatine of *Chester* aforesaid, as in that writ he is commanded; which said sheriff, to wit, *Thomas Brook*, Bart. hath answer'd him, that the execution of the writ aforesaid appears in a certain inquisition to this writ annexed; the tenor of which said inquisition follows in these words, to wit, An inquisition indented, &c.

The entry of
an impleurment
roll in C. B.
Pract. Reg.
34.

London, to wit. *Elias Bates* late of *London* aforesaid, mariner, was attached to answer to *Bartholomew Stibbs* in a plea of trespass on the case, &c. And whereon the same *Bartholomew* by *Robert Bicknell* his attorney complains, why whereas he the same *Bartholomew* on the 26th day of *November* in the year of the Lord 1716, at *London* aforesaid, to wit, in the parish of *St. Mary le Bow* in the ward of *Cheape*, was possessed of 4026*l.* of tin foreign coined money, at *Jonkcey-loan* in the *East-Indies*, current money, to the value of 200*l.* of the money of this kingdom, as of his own proper money; and being so thereof possessed, the same *Bartholomew* afterwards, to wit, the same day and year there that foreign money out of his hands and possession casually lost; which said foreign money afterwards, to wit, the same day and year, at *London* aforesaid in the parish and ward aforesaid, to the hands and possession of the said *Elias* by finding came: Nevertheless the said *Elias* knowing the foreign money aforesaid to be the proper money of him the said *Bartholomew*, and to him of right to belong and appertain; but contriving and fraudulently intending him the said *Bartholomew* in this behalf craftily and subtilly to deceive and defraud, the foreign money aforesaid, altho' required, to the same *Bartholomew* hath not yet delivered, but that foreign money the same *Elias* afterwards, to wit, on the 29th day of *November* in the year above said, at *London* aforesaid in the parish and ward aforesaid, to his own proper use converted and disposed, to the damage of the said *Bartholomew* 200*l.* And therefore he produces the suit, &c.

Impleurment.

And the said *Elias* by *A. B.* his attorney comes and defends the force and injury when, &c. and prays leave to imparl thereto here until from the day of *Easter* in 15 days; and hath, &c. The same day is given to the said *Bartholomew* here, &c.

Before

BEFORE which day the Lord King *James* the Second abdicated himself from the government of his kingdom of *England*; on which day the plaint, plea and proceedings aforesaid remained without day, because the court aforesaid was not held nor open, and afterwards, by virtue of a certain act of parliament made at *Westminster* in the county of *Middlesex* on the 13th day of *February* in the first year of the reign of the Lord and Lady *William* and *Mary*, now King and Queen of *England*, were revived, continued and adjourned, until in 15 days of *Easter* then next ensuing: The same day was given by the statute aforesaid, as well to the said *John* as to the said *Thomas* in the court aforesaid: On which day here comes as well the said *John* as the said *Thomas* by their attornies aforesaid: And because the justices here will advise themselves of and upon the premisses before they give judgment thereon, day is farther given to the parties aforesaid here until next after to hear their judgment thereon, because the same justices here thereof not yet, &c. On which day here comes as well the said *John* as the said *Thomas* by their attornies aforesaid; and hereupon the premisses being seen, and by the justices here fully understood, it seems to the same justices, that the plea of the said *Thomas* in bar pleaded, as to the said first and third promises and assumptions in the declaration aforesaid contained, and the matter in the same plea contained, are not sufficient in law to preclude the said *John* from having thereof his action aforesaid, as the said *John* hath above thereof alledged: And that the said declaration of the said *John*, as to the said second and fourth promises and assumptions, and the matter in the same declaration thereof contained, are sufficient in law to maintain the said *John* to have thereof his action aforesaid against the said *Thomas*, as the said *John* hath above thereof alledged; wherefore the same *John* ought to recover his damages by reason of the non-performance of the several promises and assumptions last mentioned against the said *Thomas*: But because it is unknown what damages the said *John* hath sustained on that occasion, the sheriff is commanded, that by the oath of good and lawful men of the county aforesaid he diligently inquire what damages the said *John* hath sustained, as well by reason of the premisses, as for his costs and charges by him about his suit in this behalf expended; and the inquisition which, &c. certify here on the Octave of *St. Hillary*, under the seal, &c. and the seals, &c. On which day comes the said *John* by his attorney aforesaid; and the sheriff, to wit, *C. L. Knt.* and *J. H. Knt.* now returns here a certain inquisition taken before him at the *Ball* in *Old Southampton Buildings* in the county aforesaid, on the 26th day of *November* in the first year of the reign of the Lord and Lady the now King and Queen, by the oath of 12, &c. whereby it is found, that the said *John* hath sustained damages by reason of the premisses, besides his costs and charges by him about his suit in this behalf expended, to 14 *l.* and for those costs and charges to 20 *s.* And because the justices here will advise themselves of and upon the premisses before they give judgment thereon, day is given to the said *John* here until from the day of *Easter* in 15 days to hear their judgment thereon, because the same justices here thereof not yet, &c. On which day here comes the said *John* by his attorney aforesaid: And because the justices here will farther advise themselves of and upon the premisses before they give judgment thereon, day is farther given to the said *John* here until on the morrow of the Holy *Trinity* to hear their judgment thereon, because the same justices here thereof not yet, &c. On which day here comes the said *John* by his attorney aforesaid; and hereupon the premisses being seen, and by the justices here more fully understood, it is considered, that the said *John* do recover against the said *Thomas* his damages aforesaid to 15 *l.* by the inquisition aforesaid in form aforesaid found, and also 8 *l.* to the same *John* at his request, for his costs and charges aforesaid, by the court here of increase adjudged; which said damages in the whole amount to 23 *l.* And the said *Thomas* in mercy, &c.

Abdication of
K. James.
Proceedings
revived by
1 W. & M.
c. 4.
Pract. Reg.
36.

The plea in-
sufficient as to
1st and 3d
promises.

The declara-
tion as to 2d
and 4th suffi-
cient.

An inquiry
awarded.

The return.
Pract. Reg.
34.

Judgment.

Tebbutt at the suit of Powle, widow.

Appearance
at the day
pleaded in
K. B.

WHEN, &c. and prays *oyer* of the writing obligatory aforesaid; and to him it is read, &c. He prays likewise *oyer* of the condition of the same writing; and to him it is read in these words, to wit, The condition of this obligation is such, &c. Which being read and heard, the same *Robert Tebbutt* the younger says, that they the said *Emery* and *John* ought not to have or maintain their action aforesaid thereof against him, because he says, that after the making of the writing obligatory aforesaid, and before the day of the exhibition of the bill aforesaid of them the said *Emery* and *John*, to wit, on *Monday* next after three weeks of *St. Michael* next ensuing the date of the writing obligatory aforesaid in the condition aforesaid above mentioned, he the said *Robert Tebbutt* the younger, in the condition aforesaid above named, appeared before the said Lord the King at *Westminster* aforesaid, to answer to the said *Emery* and *John* in the plea of trespass aforesaid, and also to the bill of them the said *Emery* and *John* against the said *Robert Tebbutt* the younger for 800 *l.* upon promise, according to the form and effect of the condition aforesaid: And this he is ready to verify by the record of that appearance in the court of the said Lord the King before the King himself remaining: Wherefore he prays judgment if the said *Emery* and *John* ought to have their action aforesaid thereof against him, &c.

Repl^t that
there is no
such record.

And the said *Emery* and *John* say, that they by any thing by the said *Robert Tebbutt* the younger above in pleading alledged ought not to be precluded from having their action aforesaid thereof against him, because they say, that there is not any such record of the appearance of the said *Robert Tebbutt* the younger before the said Lord the King in the said court of the said Lord the King before the King himself at *Westminster* aforesaid on *Monday* next after three weeks of *St. Michael*, according to the form and effect of the condition aforesaid, as the same *Robert Tebbutt* the younger hath above in pleading alledged: And this they are ready to verify: Wherefore they pray judgment and their debt aforesaid, together with their damages by reason of the detention of that debt, to be adjudged to them, &c.

Rej. that there
is.

And the said *Robert Tebbutt* the younger says, that there is such record of the said appearance of the said *Robert Tebbutt* the younger in the said court of the said Lord the King before the King himself at *Westminster* aforesaid on *Monday* next after three weeks of *St. Michael* next ensuing the date of the writing obligatory aforesaid in the said court of the said Lord the King before the King himself at *Westminster* aforesaid remaining, as the said *Robert Tebbutt* the younger hath above in pleading alledged: And this he is ready to verify by that record, &c. Therefore the said *Robert Tebbutt* the younger is commanded, that he have here on *Tuesday* next after that record at his peril, &c. The same day is given to the said *Emery* and *John* there, &c. On which day before the Lord the King at

Failure of the
record.

Westminster come the parties aforesaid by their attornies aforesaid; and the said *Robert* the record of his appearance aforesaid by him above in form aforesaid alledged here in court hath not, but hath therein failed; therefore it is considered, that the said *Emery* and *John* do recover against the said *Robert* their debt aforesaid, and also 63 *s.* for their damages which they have sustained, as well by reason of the detention of that debt, as for their costs and charges by them about their suit in this behalf expended, to the same *Emery* and *John* by the court of the said Lord the King now here with their assent adjudged: And the said *Robert* in mercy, &c.

Judgment for
the plaintiff.

Coulthurst at the suit of Wooton.

Plea, concord
5000 *l.* weight
of copper.
6 Rep. 44.
Pract. Reg.
93, 15.

WHEN, &c. and says, that he the said *Henry* ought not to have or maintain his action aforesaid thereof against him, because he says, that right and true it is that he did assume upon himself in manner and form aforesaid as the said *Henry* against him by his declaration aforesaid hath above supposed; but the same *Thomas* farther says, that after the making of the several promises and assumptions aforesaid above supposed to be made, to wit, on the third day of *January* in the year of the Lord 1714 aforesaid, he the same *Thomas*, at *London* aforesaid, to wit, in the parish of *St. Mary le Bow* in the ward of *Cheape*, did give and deliver to the said *Henry* 5000 *l.* weight of copper, in full satisfaction and discharge of the several promises and assumptions aforesaid, and of the whole money therein mentioned; which said 5000 *l.* weight of copper the said *Henry* then and there in full satisfaction and discharge of the several promises and assumptions aforesaid, and of the whole money therein mentioned, of the same

Thomas

Thomas had and received: And this he is ready to verify: Wherefore he prays judgment if the said Henry ought to have or maintain his action aforesaid thereof against him, &c.

And the said H. says, that he by any thing by the said T. above in pleading alledged ought not to be precluded from having his action aforesaid thereof against him, because by protest- ing, that the said T. did not give or deliver to the same H. the said 5000*l.* weight of copper in full satisfaction and discharge of the several promises and assumptions aforesaid, and of the whole money therein mentioned, for plea the same H. says, that he had not, nor did receive of the said T. the said 5000*l.* weight of copper, in full satisfaction and discharge of the several promises and assumptions aforesaid, and of the whole money therein mentioned, in manner and form as the same T. hath above in pleading alledged: And this he prays may be inquired of by the country: (To this the defendant demurred generally, and the plaintiff joined in demurrer): Whereupon all and singular the premisses being seen, and by the court of the said Lord the King now here more fully understood and examined, and mature deliberation thereon had, because it seems to the court of the said Lord the King now here, that the plea aforesaid by him the said H. in manner and form aforesaid above in replying plead- ed, and the matter in the same contained, are good and sufficient in law to maintain him the said H. to have his action aforesaid thereof against him the said T. whereby the same H. re- mains therein against the said T. undefended, &c. wherefore the same H. ought to recover his damages by reason of the premisses against the said T. But because it is not known to the court of the said Lord the King now here what damages the same H. hath sustained by rea- son of the premisses, therefore the sheriffs of London are commanded, that by the oath of 12 good and lawful men of their bailiwick they diligently inquire what damages the said H. hath sustained, as well by reason of the premisses aforesaid, as for his costs and charges by him about his suit in this behalf expended; and the inquisition which they shall thereof take re- turn to the Lord the King at Westminster on Tuesday next after three weeks of the Holy Trinity, under their seals and the seals of those by whose oath they shall take that inquisition, together with the writ of the Lord the King to them therefore directed: The same day is given to the said H. there, &c. On which day before the Lord the King at Westminster comes the said H. by his attorney aforesaid; and the sheriffs of London, to wit, R. K. Kt. and R. B. Kt. by virtue of the writ of the said Lord the King to them directed, have returned a certain inquisition taken before them at the Guildhall of the city of London, situate in the parish of St. Lawrence in the Old Jewry in the ward of Cheap of the same city, on the fifth day of July in the first year of the reign of the said Lord the now King; whereby it is found that the said H. hath sustained damages by reason of the premisses aforesaid, besides his costs and charges by him about his suit in this behalf expended, to 147*l.* 6*s.* 6*d.* and for those costs and charges to 27*s.* 4*d.* Therefore it is considered, that the said H. do recover against the said T. his damages aforesaid by the jury aforesaid in form aforesaid assessed, and also 11*l.* 6*s.* 2*d.* for his costs and charges aforesaid, to the same H. by the court of the said Lord the King now here with his assent of increase adjudged; which said damages in the whole amount to 160*l.* And the said T. in mercy, &c.

Repl' that he did not receive.

Judgment on demurrer.

Inquiry awarded.

The return.

Signed 30 July 1716.

Error in the Exchequer chamber.

27 El. c. 8.

Judgment af- firmed.

Costs. 3 H. 7. c. 10. 19 H. 7. c. 20. 13 C. 2. c. 2.

said,

The record
remitted into
K. B.

said, and also the proceedings of the said justices of the Common Bench aforesaid, and of the barons aforesaid of the Exchequer aforesaid, before them in the premisses had, before the Lord the King wheresoever, &c. by the same justices and the barons aforesaid were then remitted, according to the form, &c. and in the court of the said Lord the King here before the King himself now remain, &c.

The Lord Pelham against Fagg, Bart.

Impar lance.
The plaintiff
made a peer
after the bill
filed and be-
fore issue
joined.

1 E. 6. c. 7.
Tho. Ent. 34

AND now on this day, to wit, *Thursday* next after the Octave of *St. Hillary* in this same term, until which day the said *Robert Fagg*, Bart. had leave to imparl to the bill aforesaid, and then to answer, &c. (before which day, to wit, on the 10th day of *January* in the fifth year of the reign of the said Lady the Queen, the same Queen by her letters patent sealed under her great seal of *England*, bearing date at *Westminster* the said 10th day of *January* in the fifth year of her reign aforesaid, and here in court produced, did raise, constitute and create the said *Thomas Pelham*, then Bart. to the estate, degree, stile, title, name and honour of a baron within this kingdom of *England*, by the name of *Thomas Lord Pelham*, Baron of *Laughton* in the county of *Sussex*) before the Lady the Queen at *Westminster* comes as well the said *Thomas Lord Pelham* by his attorney aforesaid, as the said *Robert Fagg*, Bart. by *John Tilden* his attorney; and the same *Robert Fagg*, Bart. defends the force and injury when, &c. and says, that he is not guilty of the premisses above charged upon him: And of this he puts himself on the country: And the said *Thomas Lord Pelham* thereof likewise, &c. Therefore let a jury thereon come before the Lady the Queen at *Westminster* on _____ day next after _____ and who neither, &c. to recognize, &c. because as well, &c. The same day is given to the parties aforesaid here, &c.

The entry of
a *feri facias*
on the roll.

THE Lady the Queen sent to the sheriff of *Sussex* her writ close in these words, to wit, *Anne* by the grace of God, of *Great Britain*, *France* and *Ireland* Queen, defender of the faith, &c. To the sheriff of *Sussex*, greeting: We command you, that of the goods and chattels of *Thomas Knapp*, otherwise called *Thomas Knapp* of *Ringmer* in the county of *Sussex*, yeoman, in your bailiwick, you cause to be made (and so on till you come to) and have there then this writ. Witness *J. Holt*, Knt. at *Westminster* 23d day of *October* in the 6th year of our reign. *Holt. Coleman*. On which day before the said Lady the Queen at *Westminster* comes the said *William* in his proper person; and the sheriff of the county of *Sussex* aforesaid, to wit, *John Miller*, Bart. returns, that the said *Thomas* hath no goods or chattels in his bailiwick whereof he could cause to be made the debt and damages aforesaid, or any parcel thereof.

The like of a
ca' sa'.

THE Lady the Queen sent to the sheriff of *Sussex* her writ close in these words, to wit, *Anne* by the grace of God, of *Great Britain*, *France* and *Ireland* Queen, defender of the faith, &c. To the sheriff of *Sussex*, greeting: We command you, that you take *Thomas Knapp*, otherwise *Thomas Knapp* of (and so on to) and have there then this writ. Witness *J. Holt*, Knt. at *Westminster* 28th day of *November* in the 6th year of our reign. *Holt. Coleman*. On which day before the said Lady the Queen at *Westminster* comes the said *William* in his proper person; and the sheriff of the county of *Sussex* aforesaid, to wit, *John Miller*, Bart. returns, that the said *Thomas* is not found in his bailiwick.

Richard

Richard B. complains of *Algernon* the same *Algernon* having the privilege of The manner of suing a member of parliament, for this, to wit, that whereas the said *Richard* on the first day of *April* in the 7th year of the reign of the Lord the now King at *Westminster* accounted with the said *Algernon* concerning several sums of money to the same *Richard* from the said *Algernon* before that time due, in arrear and unpaid, and upon that account the said *Algernon* was found in arrears to the same *Richard* in 73*l.* 15*s.* 11*d.* $\frac{3}{4}$ of lawful money of this kingdom; and being so found in arrears, the said *Algernon* afterwards, to wit, the same first day of *April* in the 7th year above said, at *Westminster* afore said, in consideration thereof assumed on himself, and to the same *Richard* then and there faithfully promised, that he the said *Algernon* the said 73*l.* 15*s.* 11*d.* $\frac{3}{4}$ to the said *Richard*, when he should be thereto after required, would well and truly pay and satisfy: And whereas also the said *Algernon* afterwards, to wit, on the 20th day of *April* in the 7th year of the reign of the said Lord the King at *Westminster* afore said was indebted to the said *Richard* in 1200*l.* of like lawful money of this kingdom, for so much money by the said *Algernon* to the use of the said *Richard* before then had and received; and being so therein indebted, the said *Algernon* afterwards, to wit, the same day and year, at *Westminster* afore said, in consideration thereof assumed upon himself, and to the said *Richard* then and there faithfully promised, that he the said *Algernon* the said 1200*l.* to the same *Richard*, when he should be thereto after required, would well and truly pay and satisfy: And whereas also the said *Algernon* afterwards, to wit, on the said 20th day of *April* in the 7th year above said, at *Westminster* afore said, was indebted to the said *Richard* in other 1200*l.* of like money of this kingdom, for the like sum of money by the said *Richard* to the said *Algernon*, at the special instance and request of the said *Algernon* before then accommodated and lent; and being so therein indebted the said *Algernon* afterwards, to wit, the same day and year, at *Westminster* afore said, in consideration thereof assumed upon himself, and to the same *Richard* then and there faithfully promised, that he the said *Algernon* the same 1200*l.* to the said *Richard*, when he should be thereto after required, would well and truly pay and satisfy: And whereas also the said *Algernon* afterwards, to wit, on the said 20th day of *April* in the 7th year above said, at *Westminster* afore said, was indebted to the said *Richard* in 1050*l.* of like money of this kingdom, for the like sum of money by the said *Richard* to the same *Algernon* and into the hands of the said *Algernon*, at the like special instance and request of him the said *Algernon* before that time to the use of him the said *Richard* deposited and paid; and being so therein indebted the said *Algernon* afterwards, to wit, the same day and year, at *Westminster* afore said, in consideration thereof assumed on himself, and to the same *Richard* then and there faithfully promised, that he the said *Algernon* the same 1050*l.* to the said *Richard*, when he should be thereto after required, would well and truly pay and satisfy: And whereas also the said *Algernon* afterwards, to wit, on the said 20th day of *April* in the 7th year above said, at *Westminster* afore said, was indebted to the said *Richard* in other 1050*l.* of like lawful money of this kingdom, as well for divers other sums of money by the said *Richard* for the same *Algernon*, and at his special instance and request before then laid out, expended and paid, as for sundry goods, wares and merchandizes by the said *Richard* to the said *Algernon*, to the use of him the said *Algernon*, and by the order of him the said *Algernon* before then sold and delivered; and being so therein indebted, the said *Algernon* afterwards, to wit, the same day and year, at *Westminster* afore said, in consideration thereof assumed upon himself, and to the same *Richard* then and there faithfully promised, that he the said *Algernon* the same 1050*l.* last mentioned to the said *Richard*, when he should be thereto after required, would well and faithfully pay and satisfy: And whereas also the said *Algernon* afterwards, to wit, on the said 20th day of *April* in the 7th year above said, at *Westminster* afore said, was indebted to the said *Richard* in other 1200*l.* of like lawful money of this kingdom, for the like sum of money by the said *Algernon* to the use of him the said *Richard* had and received; and being so therein indebted, the said *Algernon* afterwards, to wit, on the same 20th day of *April* in the 7th year above said, at *Westminster* afore said, in consideration thereof assumed upon himself, and to the same *Richard* then and there faithfully promised, that he the said *Algernon* the said 1200*l.* last mentioned to the same *Richard*, when he should be thereto after required, would well and faithfully pay and satisfy: Nevertheless the said *Algernon* his several promises and assumptions afore said in form afore said made not regarding, but contriving and fraudulently intending the same *Richard* in this behalf craftily and subtilly to deceive and defraud, the said several sums, or any penny thereof, to the same *Richard* (altho' thereto by him the said *Richard* afterwards, to wit, on the said 20th day of *April* in the 7th year above said, and

often after, at *Westminster* afore said, he was required) hath not paid, nor any wife for the same satisfied, but to pay him them, or for the same any wife to satisfy, hath altogether refused, and yet doth refuse, to the damage of the said *Richard* 2000*l.* And therefore he produces the suit, &c. And hereupon the same *Richard* prays the process of the Lord the King, according to the form of the statute in such case made and provided, to him thereon to be made; and to him thereon it is granted, &c.

Pledges to prosecute { *John Doe,*
and
Richard Roe.

The writ of summons.

GEORGE, &c. To the Sheriff of *Berks*, greeting: We command you, that you cause to be summoned *John B. Bart.* (having the privilege of parliament) that he be before us at *Westminster* on _____ day next after _____ to answer to *William C.* in a plea of trespass on the case, as he shall be able reasonably to shew that he ought to answer therein; And have there that writ. Witness *John Pratt*, Knt. at *Westminster* _____ day of _____ in the 7th year of our reign.

Ventris.

Judgments.

Judgments.

AND now on this day, to wit, *Monday* next after the *Octave* of *St. Hillary* in this *Imparlance*, same term, until which day the said *Elizabeth* had leave to imparl to the bill aforesaid, and then to answer, &c. before the Lady the Queen at *Westminster* come the said *John Ward* and *Anne* his wife by their attorney aforesaid, and pray that the said *Elizabeth* may answer to their declaration aforesaid: And the said *Elizabeth*, altho' on the same day solemnly called, doth not come, nor say any thing in bar or preclusion of the action debt. *Nil dicit in* aforesaid of them the said *John Ward* and *Anne* his wife, but hath made default; whereby the same *John Ward* and *Anne* his wife remain against the said *Elizabeth* therein defended: Therefore it is considered, that the said *John Ward* and *Anne* his wife do recover Judgment against the said *Elizabeth* their debt aforesaid, and also 36 s. for their damages which they gainst an executrix. have sustained as well by reason of the detention of that debt, as for their costs and charges by them about their suit in this behalf expended, to the same *John Ward* and *Anne* his wife, by the court of the said Lady the Queen now here with their assent adjudged, of the goods and chattels which belonged to the said *Samuel Palmer* at the time of his death in the hands of the said *Elizabeth* to be administered, if she hath so much in her hands to be administered; and if she hath not so much in her hands to be administered, then the damages aforesaid of the proper goods and chattels of her the said *Elizabeth* to be levied: And the said *Elizabeth* in mercy, &c.

Therefore it is considered, that the said *Charles* do recover against the said *William* his Judgment for the appurtenances, term aforesaid yet to come of and in the tenements aforesaid with the appurtenances, the damages aforesaid by the jurors aforesaid in form aforesaid assessed, and also ejectment after a verdict. 8 l. 10 s. for his costs and charges aforesaid to the same *Charles* by the court of the said Lord the King now here with his assent of increase adjudged; which said damages in the whole amount to 10 l. 10 s. 6 d.

Betham and Shorte.

AND seals, &c. On which day here comes the said *William Betham* by his attorney Judgment in trespass where aforesaid; and the sheriff, to wit, *F. B. Esq;* now returns here a certain inquisition the jury on before him at *Horn-Castle* in the county aforesaid on the 6th day of *October* last past, by the inquiry the oath of 12, &c. taken; whereby it is found, that the said *William Betham* hath sustained damages by reason of the trespass, assault and imprisonment aforesaid, besides his costs and charges by him about his suit in this behalf expended, to 120 l. and for those give more than the plaintiff declared for. costs and charges to 2 d. whereupon the said *William Betham*, because he by his declaration aforesaid complained he was prejudiced, and had damage to the value of 100 l. only, freely here in court remits to the said *Peter* and *Samuel* 20 l. of the said 120 l. 2 d. of the damages, by the inquisition aforesaid in form aforesaid found; and prays judgment of the residue of his damages, together with the said 2 d. for his costs and charges by him about his suit in this behalf expended, by the inquisition aforesaid in form aforesaid likewise found, and the increase of the same, to be adjudged to him, &c. Therefore the said 20 l. of the damages aforesaid being remitted, it is considered, that the

the said *William Betbam* do recover against the said *Peter* and *Samuel* 100*l.* the residue of the said 120*l.* for the damages aforesaid, by the inquisition aforesaid in form aforesaid above found, and the said 2*d.* for the costs and charges aforesaid, by the same inquisition in form aforesaid likewise found, and also 14*l.* 6*s.* 6*d.* to the same *William Betbam*, at his request, for his costs and charges aforesaid, by the court here of increase adjudged; which said damages in the whole amount to 114*l.* 6*s.* 8*d.* &c. and be the said *Peter* and *Samuel* of the said 20*l.* quit, &c. And upon this the said *William Betbam* confesses here in court, that he will not farther prosecute against the said *William Gilby* in the plea aforesaid, but farther to prosecute against the said *William Gilby* in and upon the said plea doth wholly disavow and refuse: And let the said *William Betbam* have execution against the said *Peter* and *Samuel* for the damages aforesaid, &c.

Jones and Tully.

Judgment for
the plaintiff
in ejectment
on a double
demise.
Salk. 777.

Therefore it is considered, that the said *John Jones* do recover against the said *Arthur* his several terms aforesaid yet to come of and in the several tenements aforesaid with the appurtenances, and his damages aforesaid, to 40*s.* 2*d.* by the jurors aforesaid in form aforesaid assessed, and also 20*l.* 6*s.* 10*d.* to the same *John*, at his request, for his costs and charges aforesaid, by the court here of increase adjudged; which said damages in the whole amount to 22*l.* 7*s.* &c. And upon this the said *John Jones* prays the writ of the Lord the King to the sheriff of the county aforesaid to be directed, to cause him to have possession of his terms aforesaid yet to come of and in the several tenements aforesaid with the appurtenances; and to him it is granted, returnable here from the day of *St. Martin* in 15 days, &c.

Wanley and others and Lord, widow.

Judgment a-
gainst an exe-
cutor in case.
Co. Ent. 2.
Ra. Ent. 65.

Therefore it is considered, that the said *George* and *George* do recover against the said *Rachel*, *Thomas*, *Joseph* and *Mary*, their damages aforesaid, by the inquisition aforesaid in form aforesaid found, and also 8*l.* for their costs and charges aforesaid to the same *George* and *George* by the court of the said Lord the King now here with their assent of increase adjudged; which said damages in the whole amount to 520*l.* of the goods and chattels which belonged to the said *Robert* at the time of his death, being in the hands of the said *Rachel*, *Thomas*, *Joseph* and *Mary* to be administred, to be levied, if they have so much thereof in their hands to be administred; and if they have not so much in their hands, then the said 10*l.* for the costs and charges aforesaid of the proper goods and chattels of them the said *Rachel*, *Thomas*, *Joseph* and *Mary*, to be levied: And the said *Rachel*, *Thomas*, *Joseph* and *Mary* in mercy, &c.

Rebow, Knt. and his wife against Plomer.

Judgment in
debt against
the heir of an
heir of a de-
visee.

Therefore it is considered, that they the said *Isaac* and *Elizabeth* do recover against the said *George* the debt aforesaid, and the damages aforesaid, to 20*s.* 2*d.* by the jury aforesaid in form aforesaid assessed, and also 16*l.* to the same *Isaac* and *Elizabeth* with their assent, for their costs and charges aforesaid by the court here, with the assent and at the request of the said *Isaac* and *Elizabeth*, of increase adjudged; which said damages in the whole amount to 17*l.* 2*d.* of the lands and tenements of the said *George Plomer* which he had on the day of the exhibition of the bill aforesaid by hereditary descent in fee-simple from the said *Sarah Plomer*, which the same *Sarah* had by hereditary descent from the said *William Wilkinson* in fee-simple, to be levied: And the said *George* in mercy, &c. But because it is not known what lands and tenements the said *George Plomer* on the day of the exhibition of the bill aforesaid, to wit, on the said day of the year had by hereditary descent in fee-simple from the said *Sarah*, which the same *Sarah* had by hereditary descent from the same *William Wilkinson* in fee-simple, the sheriff is commanded, that by the oath of good and lawful men of his bailiwick he diligently inquire what lands and tenements the said *George Plomer*

Plomer on the said day of the exhibition of the bill aforesaid had by hereditary descent from the said *Sarah Plomer* in fee-simple, which the same *Sarah* had by hereditary descent from the said *William Wilkinson* in fee-simple, and how much those lands and tenements are worth by the year, according to the true value of the same, in all issues, besides reprises, and the lands and tenements with the appurtenances by that inquisition found, let the Sheriff deliver to the said *Isaac* and *Elizabeth*, to hold to them and their assigns until they shall thereout levy the debt and damages aforesaid; and how, &c. let the Sheriff certify to the Lord the King at *Westminster* on under the seal, &c. and the seals, &c.

Eldridge and Burfeild.

Suffex, to wit. **T** *Thomas Eldridge* was summoned to answer to *Robert Burfeild* in a plea, why he took 7 cows of him the said *Robert* and them unjustly detained, against surety and pledges, &c. And whereon the same *Thomas* in his proper person hath offered himself the fourth day against the said *Robert* in the plea aforesaid; and the same *Robert*, altho' solemnly called, doth not come, but hath made default: Therefore it is considered, that the said *Thomas Eldridge* do go thereof without day, &c. and that the said *Robert* and his pledges to prosecute, to wit, *John Doe* and *Richard Roe* be in mercy, &c. The names of the pledges, &c. and that the said *Thomas* have a return of the cows aforesaid, &c. Afterwards, to wit, on day next after in this same term before the Lady the Queen at *Westminster* comes here into court the said *Robert Burfeild* by *A. B.* his attorney, and by the statute, &c. prays the writ of the Lady the Queen of second deliverance of the cattle aforesaid; and to him it is granted, returnable here from the day of wheresoever, &c. Non suit in replevin for not declaring.

Lambert and another and Barnard.

AND the said *William* and *William*, for that the said *Elizabeth* by her plea aforesaid doth not deny but that the writing obligatory aforesaid is the deed of the said *John Barnard*, nor but that the debt aforesaid in the said writing contained is a just and true debt yet unpaid and not satisfied or discharged, and hath said nothing in bar or preclusion of the action of the said *William* and *William*, but the matter aforesaid by her the said *Elizabeth* above pleaded, that she hath no goods or chattels which belonged to the said *John* at the time of his death in her hands to be administered: And because the said *William* and *William* are not as yet advised but that the plea of the said *Elizabeth* may be true, they pray judgment of their debt aforesaid above demanded of the goods and chattels which belonged to the said *John* at the time of his death, which shall hereafter come to the hands of the said *Elizabeth* to be administered, to be levied: Therefore it is considered, that the said *William* and *William* do recover against the said *Elizabeth* their debt aforesaid of the goods and chattels which belonged to the said *John* at the time of his death, which shall hereafter come to the hands of the said *Elizabeth* to be administered, to be levied: And the said *Elizabeth* in mercy, &c. Judgment of assets in futuro where the executor pleads pravit to a bond.

England, to wit. **B**E it remember'd, that on *Monday* next after three weeks of *St. Michael* The inrolment of a deed acknowledged in the country before a puisne judge. *Delben*, Knt. one of the justices of the Lord the King, assigned to hold pleas in the court of the said Lord the King before the King himself, reports, that on the fifth day of *August* last past, at *Shrewsbury* in the county of *Salop*, came *William Scott* the elder in his proper person, and produced before the same justice a certain indenture which he acknowledged to be his deed, and prayed that that indenture, as his deed, might be inrolled on record in the court of the said Lord the King before the King himself at *Westminster*; which said indenture the said justice hath with his own proper hands now delivered here into court in form aforesaid to be inrolled, and it is inrolled in the form following, to wit, This indenture, &c.

Judgment in
ejectment by
not informed
with a release
of damages.

AND the said *Matthew Dymock* by *John Lilly* his attorney comes and defends the force and injury when, &c. And hereupon the same *James Hicks* prays that the said *Matthew* may answer to his declaration aforesaid; and upon this the said attorney of the said *Matthew* says, that he is not informed by the said *Matthew* his master to give any answer for his same master to the said *James* in the plea aforesaid, and says nothing else in bar or preclusion of the action of the said *J.* aforesaid; whereby the said *J.* remains against the said *M.* therein undefended: Therefore it is considered, that the said *J.* do recover against the said *M.* his term aforesaid yet to come of and in the tenements aforesaid with the appurtenances, and his damages which he hath sustained by reason of the trespass and ejectment aforesaid, to be adjudged, &c. And the said *J.* freely here in court acquits and releases the said *M.* from all such damages to be adjudged to him, therefore be the said *M.* from those damages quit; and the said *J.* prays the writ of the said Lord the King to be directed to the sheriff of the county aforesaid, to cause him to have possession of his term aforesaid yet to come of and in the tenements aforesaid with the appurtenances; and to him it is granted, returnable before the said Lord the King at *Westminster* on day next after The same day is given to the said *J.* there, &c.

A venire a-
warded to the
next English
county where
the issue arose
in Wales.

AND this he prays may be inquired of by the country: And the said *M.* thereof likewise, &c. And because several issues aforesaid between the parties aforesaid of and upon the premisses aforesaid joined to be tried by the country, arising and happening within the county of *Carmarthen* and the county of the borough of *Carmarthen* in the parts of *Wales*, ought to be tried by the men of the next English county to the said county of *Carmarthen* and the county of the borough of *Carmarthen* adjoining, and not elsewhere; and that the county of *Hereford* is an English county to the same county of *Carmarthen* and the county of the borough of *Carmarthen* adjoining; therefore the sheriff of the same county of *Hereford* is commanded, that he cause to come here on the Octave of the Purification of the Blessed *Mary* 12, &c. of the nearer neighbourhood of his county to the neighbourhood of *St. Peter Carmarthen* aforesaid, and the parish of *Common Vaughan* aforesaid and *Carmarthen* aforesaid and *Trisverkett*, otherwise *Trisversett* aforesaid in the county of *Carmarthen* and the county of the borough of *Carmarthen* adjoining, by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. And as to try the said other several issues between the parties aforesaid of and upon

Another ve-
nire to Midd.

the premisses aforesaid joined to be tried by the country, happening and arising within the said county of *Middlesex*, the sheriff of *Middlesex* is commanded, that he cause to come here at the said time 12, &c. of the neighbourhood of *Westminster*, by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. On which day here come the parties aforesaid, &c. And as to try the said several issues between the same parties above joined to be tried by the country in the said county of *Middlesex*, the sheriff hath not returned the writ; therefore as before the sheriff of the county of *Middlesex* is commanded, that he cause to come here from the day of *Easter* in 15 days 12, &c. to recognize in form aforesaid, &c.

Nisi prius in
Hereford.

And on the same Octave of the Purification of the Blessed *Mary*, the jury aforesaid between the parties aforesaid in the plea aforesaid above to the country in the said county of *Hereford* joined was respited therein between them here until this day, to wit, the said *Quinden* of *Easter*, unless *E. Henden*, Knt. one of the barons of the Exchequer of the Lord the King, justice of the same Lord the King assigned to take assises in the county of *Hereford*, by the form of the statute, &c. had, first come on *Saturday* the 12th day of *March* next past at *Hereford* in the county of *Hereford* aforesaid: And now here on this day comes as well the said *J. Banks* as the said *Mary* by their attorneys aforesaid; and the said justice of assise in the county of *Hereford*, before whom, &c. hath sent here his record in these words: Afterwards

The postea.

the day and place within contained, before *E. Henden*, Knt. one of the barons of the Exchequer of the Lord the King, justice of the same Lord the King, assigned to take assises in the county of *Hereford*, and *G. Craddock* to the same *E. Henden* this time associated, by the form of the statute, &c. comes the within named *J. Banks*, Knt. by his attorney within contained; and the within written *M. Croft*, widow, altho' solemnly called, doth not come, but hath made default; therefore let the jury, whereof mention is within made, be taken against her by default; and the jurors of that jury being called, some of them, to wit, *W. Gilbert*, &c. come, and on that jury are sworn; and because the rest of the jurors of the same jury have not appeared, therefore others from the by-standers, by the sheriff of the county aforesaid hereto elected, at the request of the said *John*, and by the command of the justice aforesaid, are added anew, whose names to the panel within written are annexed, according to the form of the statute in such case made and provided; and the jurors so added anew, to wit, *A. B.* &c. likewise come, who to say the truth of the within contained, together with the other jurors aforesaid first impanelled and sworn, being elected, tried and sworn, as to the breach of the covenant within written as to the non-payment to the said *John* at or upon the within written 20th day of *May* in the 14th year of the reign of the Lord the

Tales.

now

now King within written, nor within 30 days next ensuing after the same 20th day of May, of 150 l. of the within written rent of 300 l. and the non-payment to the same John at or upon the within written 20th day of October in the 14th year above said, nor within 30 days next ensuing after the same 20th day of October of other 150 l. of the said rent of 300 l. say on their oath, that the said John did not enter into the within written parcel of land, called Conny Parke, and the said Mary thereof eject, expel and amove, as the said Mary hath thereof within alledged; and they assess the damages of him the said John by reason of the breach of the covenant afore said, because the said Mary did not pay to the same John at or upon the said 20th day of May in the 14th year of the reign of the said Lord the now King above said, nor within 30 days next ensuing after the said 20th day of May, 150 l. of the said rent of 300 l. nor did pay to the same John at or upon the said 20th day of October in the 14th year above said, nor within 30 days next ensuing after the same 20th day of October, other 150 l. of the said rent of 300 l. according to the form and effect of the within written indenture between him the said John and the said Mary, and the within named Lucy, in form within mentioned made, beside his costs and charges by him about his suit in this behalf expended, to 300 l. and for those costs and charges, &c.

Verdict in
covenant on
several issues.

And the said defendant by A. B. his attorney comes and defends the force and injury when, &c. and says nothing in bar or preclusion of the action of the said plaintiff, but hath made default; whereby the same plaintiff remains against the said defendant therein undefended: Wherefore it is considered, that the said plaintiff do recover against the said defendant his term yet to come of and in the tenements afore said with the appurtenances; and upon this the said plaintiff freely here in court releases to the said defendant all damages whatever, by reason of the trespass and ejectment afore said, to be adjudged to him, &c. therefore be the defendant from those damages quit, &c. And hereupon the said plaintiff prays the writ of the Lord and Lady the King and Queen to the sheriff of the county afore said to be directed, to cause him to have his possession of his term afore said of and in the tenements afore said with the appurtenances yet to come; and to him it is granted, returnable, &c.

Judgment by
default in an
ejectment by
original a-
gainst the de-
fendant.

And the said defendant by A. B. his attorney comes and defends the force and injury when, &c. and upon this the said plaintiff prays, that the said defendant to his declaration afore said may answer; upon which the said attorney of the said defendant says, that he is not informed by the same defendant his master to give any answer for the said defendant to the same plaintiff in the plea afore said, nor says any thing else thereto in bar or preclusion of the action of the said plaintiff afore said; whereby the same plaintiff remains against the said defendant therein undefended: Wherefore it is considered, that the said plaintiff do recover against the said defendant the possession of his term afore said yet to come of and in the tenements afore said with the appurtenances, and his damages by reason of the trespass and ejectment afore said: But because it is not known what damages the said plaintiff hath sustained by reason of the trespass and ejectment afore said, the sheriff is commanded, that by the oath of 12 good and lawful men of his bailiwick he diligently inquire what damages the said plaintiff hath sustained, as well by reason of the trespass and ejectment afore said, as for his costs and charges by him about his suit in this behalf expended; and the inquisition which, &c. let the sheriff certify from the day of where soever, &c. under the seal, &c. and the seals, &c. The same day is given to the said plaintiff, &c. and upon this the said plaintiff prays the writ of the Lord and Lady the King and Queen to the sheriff of the county afore said to be directed, to cause him to have possession of his term afore said of and in the tenements afore said with the appurtenances yet to come; and to him it is granted, returnable at the said time, &c.

Verdict in
ejectment by
not informed
by original.

Pract. Reg.
105. 621.

Writ of pos-
session award-
ed.

Mich. 7 W. 3. Roll 23.

AND who neither, &c. to recognize, &c. because as well, &c. The same day is given to the parties afore said there, &c. from which day the jury afore said between the parties afore said in the plea afore said was respited between them before the Lord the King at Westminster until then next following, for want of jurors, &c. On which day before the Lord the King at Westminster come the parties afore said by their attorneys afore said; and the jurors of that jury impanelled being called likewise come, who to say the truth of the premisses being elected, tried and sworn, as to the first issue between the parties afore said above said joined say, &c.

Verdict at
bar.

Postea.

Postea.

Dummer, Esq; and Fitch, Esq;

The entry of the *postea* and verdict, part for the plaintiff and part for the defendant, in case for words, where a full jury appeared.
18 El. c. 12.
12 G. c. 31.

Afterwards the day and year within contained, before *John Holt*, Knt. the chief justice of the Lord the King within named, *John Ince*, Gent. being associated to him, by the form of the statute, &c. comes as well the within named *Edward Dummer*, Esq; as the within written *John Fitch*, Esq; by their attornies within contained; and the jurors of the jury, whereof mention is within made, being called likewise come, who to say the truth of the within contained, being elected, tried and sworn, as to these *English* words within written, to wit, I have given Mr. *Dummer* 600 l. as a bribe, say on their oath, that the said *John Fitch* is guilty of the speaking, pronouncing and publishing of the same *English* words, in manner and form as the said *E. D.* within thereof against him complains; and they assess the damages of him the said *Edward* by reason thereof, besides his costs and charges by him about his suit in this behalf expended, to 300 l. and for those costs and charges to 20 s. and as to the speaking, pronouncing and publishing of the residue of the words within written, the jurors aforesaid farther say on their oath, that the said *John* is not guilty thereof, as the said *John Fitch* hath within by pleading alleged: Therefore it is considered, as to the speaking, pronouncing and publishing these *English* words aforesaid in the declaration aforesaid, to wit, I have given Mr. *D.* 600 l. as a bribe, that the said *Edward D.* do recover against the said *John Fitch* the damages aforesaid by the jury aforesaid in form aforesaid assessed, and also 64 l. for his costs and charges aforesaid to the same *Edward* by the court of the said Lord the King now here with his assent of increase adjudged; which said damages in the whole amount to 364 l. And the said *John* in mercy, &c. And also the said *Edward* for his false plaint against the said *John* as to the speaking, pronouncing and publishing of the residue of the *English* words in the declaration aforesaid specified, whereof the same *John* by the jurors aforesaid above in form aforesaid is acquitted; and let the said *John* go thereof without day, &c.

Process continued in London in debt.

Afterwards the proceedings thereof being continued between the parties aforesaid in the plea aforesaid by the jury aforesaid being put thereof between them in respite before the Lord the King at *Westminster* until *Wednesday* next after three weeks of the Holy Trinity, unless the trusty and beloved of the Lord the King *F. Pemberton*, Knt. the chief justice of the same Lord the King, assigned to hold pleas in the court of the said Lord the King before the King himself, first come on *Tuesday* next after the said three weeks of the Holy Trinity at the *Guibald*, London, by the form of the statute, &c. for want of jurors, &c. On which day before the Lord the King at *Westminster* come the said master and keepers, or wardens and commonalty of the mystery or art of stationers of the city of London, by their attorney aforesaid; and the said chief justice, before whom, &c. hath sent here his record in these words, to wit, Afterwards the day and year within contained, before *F. Pemberton*, Knt. the chief justice within named, *O. Smith*, Gent. being associated to him, by the form of the statute, &c. come as well the within named master and keepers, or wardens and commonalty of the mystery or art of stationers of the city of London, as the within named

The *postea*.

James

James Astwood by their attornies within contained; and the jurors of the jury, whereof mention is within made, being called likewise come, who to say the truth of the within contained being elected, tried and sworn, say on their oath, that the within named *James* doth owe to the said master and keepers, or wardens and commonalty of the mystery or art of stationers of the city of *London*, the within written 20*l.* in manner and form as they the said master and keepers, or wardens and commonalty of the mystery or art of stationers of the city of *London*, within against him the said *James* complain; and they assess the damages of them the said master and keepers, or wardens and commonalty of the mystery or art of stationers of the city of *London*, by reason of the detention of that debt, besides their costs and charges by them about their suit in this behalf sustained, to 12*d.* and for those costs and charges to 53*s.* 4*d.* Therefore it is considered, that the said master and keepers, or wardens and commonalty of the mystery or art of stationers of the city of *London*, do recover against the said *James Astwood* their debt aforesaid, and their damages aforesaid by the jury aforesaid in form aforesaid assessed, and also 12*l.* 5*s.* 8*d.* for their costs and charges to the same master and keepers, or wardens and commonalty of the mystery or art of stationers of the city of *London*, by the court of the said Lord the King now here with their assent of increase adjudged; which said damages in the whole amount to 15*l.* And the said *James Astwood* in mercy, &c.

Without a
Tales.

Salk. 738,
750, 760.

Verdict on
nil debet.

See 1 Inst.
226.

Pract. Reg.
337, 643.

Judgment for
the plaintiffs.

Afterwards the day and place within contained, before *Edward Herbert*, Knt. the chief justice within written, associated to him comes as well the within named *John Parry* as the within written *Henry Hall*, Gent. and *Anne Hall*, widow, by their attornies within contained; and the jurors of the jury, whereof mention is within made, being called likewise come, who to say the truth of the within contained, were elected, tried and sworn, and from the bar here to consult together to give their verdict thereon withdrew, and having consulted together and agreed thereon to give that verdict to the bar here returned; upon which the said *John Parry*, altho' solemnly called, doth not come, nor farther prosecute his writ within written against the said *Henry* and *Anne*: Therefore, &c.

A nonsuit on
evidence

where a full
jury appear.

SAY on their oath, that the said *Charles Trulshawe* is guilty of the trespass and ejectment within written in manner and form as the said *William* within against him thereof complains; and they assess the damages of the said *William Browne* by reason thereof, besides his costs and charges by him about his suit in this behalf expended, to 12*d.* and for those costs and charges to 43*s.* 4*d.* Therefore, &c.

Verdict in e-

jection on
Not guilty.

Salk. 725,
735.

Tallant and Jermyn.

Afterwards the proceedings thereof being continued between the parties aforesaid in the plea aforesaid by the jury therein between them being respited before the Lord and Lady the King and Queen at *Westminster* until *Thursday* next after one month of *Easter* thence next ensuing, unless the trusty and well beloved of the Lord and Lady the King and Queen *John Holt*, Knt. the chief justice of the said Lord and Lady the King and Queen, assigned to hold pleas in the court of the Lord and Lady the King and Queen before the King and Queen themselves, first come on *Wednesday* next after the said month of *Easter*, at *Westminster* in the great hall of pleas there, by the form of the statute, &c. for want of jurors, &c. On which day before the Lord and Lady the King and Queen at *Westminster* comes the said *Humbry* by his attorney aforesaid; and the said chief justice of the Lord and Lady the King and Queen, before whom, &c. hath sent here his record before him had in these words, to wit, Afterwards the day and place within contained, before *John Holt*, Knt. the chief justice within written, *John Ince*, Gent. being associated to him, by the form of the statute, &c. comes the within named *Humbry Tallant* by his attorney within named; and the within written *John Jermyn*, altho' solemnly called, doth not come, but hath made default; therefore let the jury, whereof mention is within made, be taken against him by default; and the jurors of that jury being called, some of them, to wit, *T. Laicbwell*, *Henry Gerrard*, *John Collins*, *Jonas Morley*, *T. Hollins*, *John Bayly*, *Richard Downes*,

Postea in Mid-
dix in af-
sumptis.

18 El. c. 12.

12 G. c. 31.

Downes, Edward Slater, Edward Hanstear and James Partridge come, and on that jury are sworn: But because the rest of the jurors of the same jury have not appeared, therefore others from the by-standers, by the sheriff of the county of *Middlesex* within written hereto elected, at the request of the said *Humphry*, and by the command of the chief justice aforesaid, are added anew; whose names to the panel within written are annexed, according to the form of the statute in such case lately made and provided; and the jurors so added anew, to wit, *Thomas Harris* and *Thomas Bamidge* being called likewise come, who to say the truth of the within contained, together with the other jurors aforesaid first impanelled and sworn, being elected, tried and sworn, say on their oath, that the within written *John Fermyn* did assume upon himself in manner and form as the said *Humphry Tallant* within against him complains; and they assess the damages of him the said *Humphry* by reason of the non-performance of the promises and assumptions within mentioned, besides his costs and charges by him about his suit in this behalf expended, to 86 *l.* and for those costs and charges to 20 *s.* Therefore it is considered, that the said *Humphry Tallant* do recover against the said *John Fermyn* his damages aforesaid by the jury aforesaid in form aforesaid assessed, and also 14 *l.* for his costs and charges aforesaid, to the same *Humphry* by the court of the said Lord and Lady the King and Queen now here with his assent of increase adjudged; which said damages in the whole amount to 101 *l.* And the said *John* in mercy, &c.

Tales.

Salk. 725.

35 H. 8. c. 6.

7 & 8 W. 3.

c. 32. § 3.

3 G. 2. c. 25.

Verdict for the plaintiff.

Judgment.

Rebow, Knt. and his wife and Honywood.

Verdict for the plaintiff on payment at the day.

SAY on their oath, that the within written *William Wilkinson* in his life-time after the within mentioned first day of *March* in the condition within written within mentioned, and before the day of the exhibition of the bill within written, did not pay to the within named *John Lemot Honywood* the within mentioned 200 *l.* and the interest therefore due, as the said *George* within thereof in pleading hath alledged; and they assess the damages of them the said *Isaac* and *Elizabeth* by reason thereof, besides their costs and charges by them about their suit in this behalf expended, to 12 *d.* and for those costs and charges to 20 *s.* Therefore, &c.

Nonsuit.

Elected, tried and sworn; and after evidence to them of and upon the premises given from the bar of this court to consult of their verdict of and upon the premises withdrew; and after the same jurors had consulted among themselves and agreed to the same bar to give their verdict in this behalf returned; upon which the said *Thomas Miffiter*, being solemnly called, doth not come, nor farther prosecute his bill against the said *Thomas Allett*: Therefore, &c.

For the defendant's costs, according to the form of the statute, 5 *l.* 10 *s.*

Verdict for the plaintiff on fully administered.

SAY on their oath, that the said *Katherine Franklyn* hath, and on the day of the exhibition of the bill within written of the said *R. J.* to wit, on the 10th day of *April* in the 25th year of the reign of the said Lord the now King, had sundry goods and chattels which belonged to the within named *Richard Franklyn* at the time of his death in her hands to be administered, to the value of the debt within specified, where-with she might have satisfied the same *J. R.* the debt aforesaid, to wit, at *Marlborough* within written in the county aforesaid; and they assess the damages of him the said *J. R.* by reason thereof, besides his costs and charges by him about his suit in this behalf expended, to 2 *d.* and for those costs and charges to 40 *s.* Therefore, &c.

Asie, who as well, &c. and Fissenden.

ELected, tried and sworn: As to 20 *l.* of the within written 200 *l.* parcel, to wit, for the last month of the within written ten months in which the said *Thomas* from church, chapel, or place of common prayer and preaching, or other divine service there, as within is said, had absented himself, against the form of the statute within mentioned, say on their oath, that the said *Thomas* doth owe to the said Lord the King and the said *Samuel*, who as well, &c. the same 20 *l.* and every penny thereof, in manner and form as the said *Samuel*, who as well, &c. within against him complains: And as to 180 *l.* the residue of the said 200 *l.* the jurors aforesaid farther say on their oath aforesaid, that the said *Thomas* doth not owe to the said Lord the King and the said *Samuel*, who as well, &c. the same 180 *l.* nor any penny thereof, as the said *Thomas* within in pleading hath alledged: Therefore, &c.

Verdict for the plaintiff and part for the defendant on all debts.

SAY on their oath, that the articles of agreement within specified in the declaration within written mentioned, are the deed of them the said *Nicholas* and *Thomas*, as the same *Francis* within against them complains; and they assents the damages of him the said *Francis* by the occasion within written, besides his costs and charges by him about his suit in this behalf expended, to 3 *l.* 12 *s.* 6 *d.* and for those costs and charges to 53 *s.* 4 *d.* Therefore, &c.

Verdict for the plaintiff, that the articles are the deed, &c.

ELected, tried and sworn: As to the first issue within written between the said *John* and the said *Hugh* within joined, as to the force and arms, or whatever that is against the peace of the said Lord the King, and also the wounding, maiming, striking and bearing out the left eye of the said *John* within supposed to be done, say on their oath, that the said *Hugh* is not guilty thereof, as the same *Hugh* within in pleading hath alledged: And as to the other issue within written between the parties aforesaid within likewise joined, as to the residue of the trespass within written within supposed to be done, the jurors aforesaid on their oath aforesaid farther say, that the said *John* the day and year within written in the declaration within written within specified, at *Codsal* within written in the county of *Stafford* aforesaid, with force and arms, &c. on the said *Hugh* did make an assault, and him then and there would have beat, wounded and abused, unless the same *Hugh* had then and there immediately defended himself against the said *John*, and so the damage and mischief which to the same *John* then and there happened was from the proper assault of him the said *John*, and in the defence of the said *Hugh*, as the same *Hugh* within in pleading hath alledged: Therefore, &c.

Verdict for the defendant on his assault.

SAY on their oath, that the said *Thomas King* and *Obadiab Reynolds* are not guilty of the trespass in the declaration within specified, as the said *Thomas King* and *Obadiab Reynolds* have within by pleading alledged: Therefore, &c.

For the defendants on not guilty in trespass.

SAY on their oath, that the said *Edward Progers* at any time within six years next before the prosecution of that writ did not break and enter the house of him the said *Thomas Tompkins*, nor take and carry away the goods and chattels and money of him the said *Thomas* within contained, as the said *Thomas* within by replying hath alledged, &c.

For the defendant in trespass on the statute of limitations pleaded.

SAY on their oath, that he the said *Edward* at the within mentioned time of the exhibition of the bill of him the said *Robert Wrightson* within specified, had fully administered all the goods and chattels which belonged to the said *Thomas* within specified at the time of his death in his hands to be administered, and that he the same *Edward* hath not, nor on the day of the exhibition of the bill within specified, or

Verdict for the defendant on fully administered.

ever after, had any goods or chattels which belonged to the said *Thomas* at the time of his death in his hands to be administered, wherewith he could pay to the said *Thomas Wrightson* the debt within specified, or any penny thereof, as he in the bar of him the said *E.* within by pleading hath alledged: Therefore, &c.

Verdict for the plaintiff in covenant on conditions performed.

SAY on their oath, that the said *William* hath not observed, performed, fulfilled or kept any covenants, grants, articles, clauses, contracts, conditions and agreements in the within written articles of agreement indented, contained and specified on the part of the said *William* to be observed, performed, fulfilled and kept, according to the form and effect of the articles of agreement indented within written, as the said *George* within against him complains; and they assess the damages of him the said *George* by the occasion within written, besides his costs and charges by him about his suit in this behalf expended, to 11 l. 9 s. and for those costs and charges to 40 s. Therefore, &c.

For the plaintiff in ejectment.

SAY on their oath, that the said *Peter Wentworth* is guilty of the trespass and ejectment within written, in manner and form as the said *George Pearse* within against him complains; and they assess the damages of him the said *George* by reason of that trespass and ejectment, besides his costs and charges by him about his suit in this behalf expended, to 6 d. and for those costs and charges to 40 s. Therefore, &c.

For the plaintiff on payment at the day.

SAY on their oath, that the said *Humphry Broughton* did not pay the within written sum of 10 l. 8 s. to the within named *John Barker* on the within written 24th day of December in the condition within written specified, in manner and form as the said *Humphry* within thereof in pleading hath alledged; and the same jurors assess the damages, &c.

For the plaintiff on not his deed.
Salk. 750.

SAY on their oath, that the writing obligatory within mentioned is the deed of the within named *John Griffin*, as the within written *Samuel Harrison* hath within against him declared; and they assess the damages of the within named *Samuel Harrison* by reason of the detention of that debt, besides his costs and charges by him about his suit in this behalf expended, to 12 d. and for those costs and charges to 20 s. Therefore, &c.

For the plaintiff on nonage pleaded.

SAY on their oath, that the within named *John Styles* at the time of the making, sealing and delivery of the within mentioned writing obligatory, was of the full age of 21 years and more, in manner and form as the said *Charles Smith* within by replying hath alledged; and they assess the damages of the said *Charles* by reason of the detention of the debt within written, besides his costs and charges by him about his suit in this behalf expended, to 12 d. and for those costs and charges to 20 s. Therefore, &c.

Where a jury is withdrawn.

WERE elected, tried and sworn; upon which for certain reasons, as well to the justices aforesaid as to the parties aforesaid appearing, the said *Edward Swayles*, one of the jurors of the jury within written, from the panel aforesaid is withdrawn, and the rest of the jurors of that jury are wholly discharged from giving any verdict of and upon the premisses within written, &c.

For the defendant on property pleaded in replevin.

SAY on their oath, that the property of the cattle within named at the within written time of the taking of them was in *Mary Lady Digby*, as the said *Mary Lady Digby* within by replying hath alledged; and they assess the damages of the said *Mary Lady Digby*

Digby by the occasion within written, besides her costs and charges by her about her suit in this behalf expended, to 6 *d.* and for those costs and charges to 53 *s.* 4 *d.* Therefore, &c.

ELected, tried and sworn: As to the trespass and ejectment in one messuage and 12 acres of land, parcel of the tenements in the declaration within written within mentioned, say on their oath, that the said *Sarah Hudson* is thereof guilty, as the said *Edward Munday* within thereof against her complains: And as to the trespass and ejectment in 10 acres of pasture, other parcel of the tenements within written, the jurors aforesaid farther say on their oath aforesaid, that the said *Sarah* is not thereof guilty, as she within by pleading hath alledged: And as to the trespass and ejectment in a moiety of the residue of the tenements within written, the jurors aforesaid farther say on their oath aforesaid, that the said *Sarah* is thereof guilty in manner and form as the said *Edward Munday* within thereof against her likewise complains; and they assess the damages of him the said *Edward Munday* by reason of the trespass and ejectment aforesaid, besides his costs and charges by him about his suit in this behalf expended, to 12 *d.* and for those costs and charges to 40 *s.* And as to the trespass and ejectment in the residue of the tenements in the declaration aforesaid within likewise specified, the jurors aforesaid farther say on their oath aforesaid, that the said *Sarah* is not thereof guilty in manner and form as she within likewise by pleading hath alledged: Therefore, &c.

Verdict in ejectment on a double demise, part for the plaintiff, part for the defendant.

SAY on their oath, that the said *Robert* did not inclose and stop up the way within mentioned, nor him the said *Philip* from the use and possession of the way within written hinder, eject, expel and amove, in manner and form as the said *Robert* within for himself by replying hath alledged; and they assess the damages of him the said *Robert* by the occasion within written, &c.

For the defendant in trespass for stopping a way.

ELected, tried and sworn: As to the first issue between the parties aforesaid within joined, say on their oath, that the said *John Hulbert* at the within written time when, &c. the close within written in which, &c. out of the said foot way did not break nor enter, nor the grass within written then and there growing, to the value of 10 *l.* out of the way within written with his feet by walking tread down and destroy, as the same *John Hulbert* within thereof by pleading hath alledged: And as to the second issue between the parties aforesaid within likewise joined, the same jurors farther say on their oath aforesaid, that the hedges and ditches within written between the within written close in which, &c. and the within written common lane at the within written time when, &c. were not wholly ruinous, nor in decay nor insufficient, in manner and form as the said *Thomas Hancock* within by pleading hath alledged; and they assess the damages of him the said *Thomas* by reason of the trespass in that issue specified, besides his costs, &c.

In trespass, part for the plaintiff, and part for the defendant.

SAY on their oath, that the said *Thomas* within six years next before the within written day of the exhibition of the bill within specified of the said *Edward*, to wit, on the within written first day of *April* in the 33d year of the reign of the Lord *Charles* the Second, now King of *England*, &c. in the declaration within written within specified, did assume upon himself in manner and form as the said *Edward* within by replying hath alledged; and they assess the damages, &c.

For the plaintiff on non assumpsit infra sex annos.

SAY on their oath, that the within named *William Bulkley*, the testator, in his lifetime did not assume upon himself in manner and form as the said *William Pemberton* hath within declared: Therefore, &c.

That the testator did not assume.

Croxall, who as well, &c. and The Inhabitants of the hundred of Hemlingford.

For the plaintiff on the statute of hue and cry. **S**AY on their oath, that the said men, inhabitants within the hundred of *Hemlingford* afore said, are guilty of the premisses within written charged on them, against the form of the * statute within written, as the said *Josias Croxall*, who as well, &c. within against them thereof complains; and they assels the damages, &c.
* The requi-
sutes to main-
tain, and the method of proceeding in this action, are alter'd by 8 G. 2. c. 16.

Alexander against Woods and another.

Non suit on an issue in a writ of error. **W**ERE elected, tried and sworn, and from the bar here to consult to give their verdict thereon withdrew, and having consulted together and agreed thereon to the bar here returned; upon which the said *John Osgood* and *Nathaniel Rouse*, altho' solemnly called, do not come, nor farther prosecute their writ within specified against the said *John Alexander*: Therefore, &c.

For costs, by reason of the delay of execution, 18 l.

Compton, Knt. against The Earl of Kildare.

For the plaintiff on non assumpsit infra sex annos. **S**AY on their oath, that the said *Almerick de Coursey* within six years next before the within written day of the issuing of the within written original writ of the said *Francis Compton*, Knt. did assume upon himself in manner and form as the said *Francis* within by replying hath alledged; and they assels the damages of him the said *Francis* by reason of the non-performance of the promises and assumptions within written, besides his costs and charges by him about his suit in this behalf expended, to 322 l. 10 s. and for those costs and charges to 20 s. Therefore, &c.

Fovargne against Hampson.

In trespass, part for the plaintiff, part for the defendant. **E**Lected, tried and sworn: As to the taking and carrying away of one haycock in the declaration within written within specified, say on their oath, that the said *James Hampson* is thereof guilty, as the said *David Fovargne* within against him complains; and they assels the damages of him the said *David Fovargne* by reason thereof, besides his costs and charges by him about his suit in this behalf expended, to 8 d. And as to the trespass within written, as to taking and carrying away of the bridges in the declaration afore said within specified, the jurors afore said on their oath afore said say, that the said *Peter Elam* is thereof guilty, as the said *David Fovargne* within thereof against him complains; and they assels the damages of him the said *David* by reason thereof, besides his costs and charges by him about his suit in this behalf expended, to 20 s. and for those costs and charges against them the said *James Hampson* and *Peter Elam* to 53 s. 4 d. And as to the residue of the trespass in the declaration afore said within specified, other than of and in the taking and carrying away of the said haycock, the jurors afore said on their oath afore said say, that the said *James* is not thereof guilty: And as to the other residue of the trespass afore said in the declaration afore said within specified, other than of and in the carrying away of the bridges afore said, the same jurors likewise on their oath afore said say, that the said *Peter* is not thereof guilty, as the same *James* and *Peter* have thereof alledged: And the jurors afore said on their oath afore said say, that the said *Thomas Warrell* is in no wise guilty of the trespass within written, as the said *Thomas Warrell* hath within for himself by pleading alledged: Therefore, &c.

Sibson against Atkinson.

Elected, tried and sworn: As to the first issue between the parties aforesaid within ^{Otherwise.} joined, as to the force and arms, and also the biting of the sheep within written with the dogs within written, the jurors aforesaid on their oath say, that the said Gerard is thereof guilty, as the said Leonard within against him thereof complains: And as to the residue of the trespass within written supposed to be committed, whereon the second issue is within joined, the jurors aforesaid farther on their oath aforesaid say, that the said Leonard, as a customary tenant of the within written manor of *Holmcultram* within specified, and all those whose estate he hath, and at the within written time when, &c. had, of and in the within mentioned messuage with the appurtenances, for time immemorial have had, and been accustomed to have, for themselves, their tenants and farmers, of the same messuage with the appurtenances common of pasture, according to the custom of the manor aforesaid for all their sheep in the said pasture called *Buil Mofse* in *Newtowne*, otherwise *Mawbrey* in the parish of *Newtowne Arloshe* within written in the county aforesaid, every year at all times of the year, as to the said messuage belonging and appertaining, in manner and form as the said Leonard within by replying hath alledged; and they assess the damages of him the said Leonard by the occasion within written, besides his costs and charges by him about his suit in this behalf expended, to 2 d. and for those costs and charges to 40 s. Therefore, &c.

Bolsworth against Pilkington.

Elected, tried and sworn: As to these *English* words within written, to wit, You are Verdict, part a pitiful broken fellow, and are not able to pay your debts, say on their oath, that for the plaintiff, and part the said Thomas Pilkington is guilty of the saying, speaking, proclaiming, publishing and pronouncing of the same *English* words, in manner and form as the said Edward Bolsworth for the defendant, in case within against him thereof complains; and they assess the damages of him the said Edward Bolsworth by the occasion aforesaid, besides his costs and charges by him about his suit in this behalf expended, to 800 l. and for those costs and charges to 40 s. And as to the saying, speaking, proclaiming, publishing and pronouncing the residue of the *English* words within specified, the jurors aforesaid on their oath aforesaid farther say, that the said Thomas Pilkington is not thereof guilty, as the same Thomas within by pleading hath alledged: Therefore it is considered, that the said Edward Bolsworth do recover against the said Thomas the damages aforesaid by the jury aforesaid in form aforesaid assessed, and also 11 l. 6 s. 8 d. to the same Edward for his costs and charges aforesaid, by the court of the Lord the King now here with his assent of increase adjudged; which said damages in the whole amount to 813 l. 6 s. 8 d. And the said Thomas in mercy: And likewise the said Edward in mercy for his false plaint against the said Thomas, as to the said residue of the words whereof the same Thomas by the jurors aforesaid in form aforesaid is acquitted: And let the said Thomas go thereof without day, &c.

Smith against Farmer.

Elected, tried and sworn: As to the trespass and ejectment within written of and in ^{In ejectment,} two messuages, 10 cottages, 150 acres of land, 100 acres of meadow, 150 acres of pasture with the appurtenances in *Slawston*, *Harborough* and *Bowden Magna*, and of and ^{part for the plaintiff, and part for the defendant.} in a moiety of the manor of *Harborough* aforesaid with the appurtenances, and also of and in a moiety of the fairs and markets of *Harborough* aforesaid, and of all toll, stallage, picage, pontage, and other perquisites, profits, customs and privileges to the same manor, fairs and markets belonging and appertaining, in the declaration within written within specified, say on their oath, that the said W. Farmer is thereof guilty, as the said G. Smith within thereof against him complains; and they assess the damages of him the said George by the occasion within written, besides his costs and charges by him about his suit in this behalf expended, to 6 d. and for those costs and charges to 53 s. 4 d. And as to the residue of the trespass and ejectment within written of and in three messuages, 10 cot-

10 cottages, 250 acres of land, 100 acres of meadow, and 250 acres of pasture with the appurtenances in *Welham* in the declaration within written likewise specified, the same jurors farther on their oath aforesaid say, that the said *William Farmer* is not thereof guilty, as the said *William Farmer* within for himself by pleading thereof hath alledged: Therefore it is considered, that the said *George* do recover against the said *William* his term aforesaid of and in the said two messuages, 10 cottages, 150 acres of land, 100 acres of meadow, 150 acres of pasture with the appurtenances in *Slawston*, *Harborough* and *Bowden Magna*, and of and in a moiety of the manor of *Harborough* aforesaid with the appurtenances, and also of and in a moiety of the fairs and markets of *Harborough* aforesaid, and of all tolls, stallage, piccage, pontage, and other perquisites, profits, customs and privileges to the same manor, fairs and markets belonging and appertaining, whereof it is above found by the jurors aforesaid, that the said *William Farmer* is guilty of the trespass and ejectment aforesaid yet to come, and his damages aforesaid, to 53 s. 10 d. by the jurors aforesaid in form aforesaid assessed, and also 12 l. 6 s. 2 d. to the same *George* at his request, for his costs and charges aforesaid, by the court here of increase adjudged; which said damages in the whole amount to 15 l. And the same *William Farmer* is pardoned, &c. And the said *George* in mercy for his false plaint against the said *William* for the residue of the trespass and ejectment aforesaid, whereof the said *William* by the jurors aforesaid is above acquitted: And let the said *William Farmer* go thereof without day, &c. And upon this the said *George* prays the writ of the Lord and Lady the King and Queen to be directed to the sheriff of the county aforesaid, to cause him to have possession of his term aforesaid of and in the said two messuages, 10 cottages, 150 acres of land, 100 acres of meadow, 150 acres of pasture with the appurtenances in *Slawston*, *Harborough* and *Bowden Magna*, and of and in a moiety of the manor of *Harborough* aforesaid with the appurtenances, and also of and in a moiety of the fairs and markets of *Harborough* aforesaid, and of all tolls, stallage, piccage, pontage, and other perquisites, profits, customs and privileges to the same manor, fairs and markets belonging and appertaining, above as aforesaid adjudged to him; and to him it is granted, returnable here from the day of *St. Michael* in three weeks, &c.

Judgment.

Pardon.

Habere facias possessionem prayed.

Sparrow against Dunch and others.

Verdict in assault and false imprisonment, part for the plaintiff, and part for the defendant.

Elected, tried and sworn: As to the issue between the said *Anne* and the said *Lyming* and *Francis* within joined, say on their oath, that the same *Lyming* and *Francis* are not guilty of the premisses within charged on them, as the said *Lyming* and *Francis* within by pleading have alledged: And as to the first issue between the said *Anne* and the said *William Dunch* within joined, to wit, as to the force and arms, and whatever that is against the peace of the said Lady the now Queen, and also the whole trespass within mentioned, except the assault, beating, abusing, taking and imprisonment, and detaining and keeping in prison of the said *Anne* for the space of eight hours, part of the within mentioned 24 hours, the jurors aforesaid on their oath aforesaid farther say, that the said *William* is guilty in manner and form as the said *Anne* within against him complains: And as to the second issue between the said *Anne* and the said *William Dunch* within joined, to wit, as to the assault, beating, abusing, taking and imprisonment, and detaining and keeping in prison of the said *Anne* for the space of eight hours, the jurors aforesaid on their oath aforesaid farther say, that the said *William Dunch* on the day and year in the declaration within written specified, of his own wrong, without any such cause by him the said *William* in his plea within pretended, on the said *Anne*, at the parish of *St. Sepulchre* in the county within written, did make an assault, and her the said *Anne* did beat, abuse, take, imprison, and in prison there did detain and keep, in manner and form as the said *Anne* within against him complains; and they assess the damages of her the said *Anne Sparrow* by reason thereof, besides her costs and charges by her about her suit in this behalf expended, to 40 s. and for those costs and charges to 20 s. Therefore, &c.

Rosewell against Prior.

In case for continuing the stopping up the plaintiff's lights.

Elected, tried and sworn: As to the continuance of the building within written in the declaration aforesaid last mentioned to be by the said *Samuel* erected and built in the issue between the parties aforesaid within joined mentioned, say on their oath, that the said *Samuel*

Samuel is thereof guilty in manner and form as the said *Nathaniel* within against him thereof complains; and they assess the damages of him the said *Nathaniel*, by reason of the continuance of the building aforesaid last mentioned, and so by the said *Samuel* within mentioned to be erected and built, besides his costs and charges by him about his suit in this behalf expended, to 100*l.* and for those costs and charges to 20*s.* And as to the continuance of the building within mentioned in the declaration aforesaid within first mentioned to be by him the said *Samuel* erected and built, if judgment on the demurrer in law in that behalf within written, whereof the parties aforesaid have within put themselves on the judgment of the court, happens to be given for the said *Nathaniel* against the said *Samuel*, then the jurors aforesaid assess the damages of him the said *Nathaniel*, by reason of the continuance of the building aforesaid, as aforesaid first mentioned to be by the said *Samuel* erected and built, besides the damages and costs aforesaid above by them assessed for the continuance of the building aforesaid last mentioned to be erected and built in issue put, to 1*d.* Therefore, &c.

Freake and others against Heskett, clerk.

SAY on their oath, that the within named *Elizabeth Cabell* was seised of the rectory of the church within mentioned, to which, &c. in her demesne as of fee, in manner and form as the within named *Thomas Freake*, *C. Cooke* and *Charles D'Oyly*, within by declaring have alledged: And farther the jurors aforesaid, being asked by the court, whether the vicarage of the church aforesaid is full or not; and if it be full, then of whose presentation it is full, and what time hath elapsed since the vicarage of the church aforesaid last became vacant, and what the vicarage of that church is worth a year in all issues, besides reprises, according to the true value of the same, say on their oath, that the said vicarage of the church within written is full and consulted of the within named *Thomas Heskett* of the presentation of the most serene Lord *William* the Third, now King of England, &c. and that the vicarage of the church aforesaid last became vacant on the 25th day of December in the year of the Lord 1697. by the death of the within named *Humphry Sambhill*, the last incumbent of the vicarage of that church; and that the said *Thomas Freake*, *Charles Cooke* and *Charles D'Oyly*, prosecuted their original writ against the within named bishop and the said *Thomas Heskett* on the 20th day of May in the 10th year of the reign of the Lord *William* the Third, now King of England, &c. and that the vicarage of that church is worth 60*l.* a year in all issues, besides reprises; whereupon the same *Thomas Freake*, *Charles Cooke* and *Charles D'Oyly*, according to the form of the statute in such case made and provided, instantly pray judgment of and upon the premises, and a writ to the bishop, the ordinary, &c. to be directed, to remove the said *Thomas Heskett* from the vicarage of the church aforesaid, and to admit a proper person to the vicarage of that church on the presentation of them the said *Thomas Freake*, *Charles Cooke* and *Charles D'Oyly*, and their damages, to wit, the value of the vicarage of the church aforesaid for half a year, by the jurors aforesaid in form aforesaid assessed: Therefore it is considered by the court here, that the said *Thomas Freake*, *Charles Cooke* and *Charles D'Oyly*, do recover against the said *Thomas Heskett* their presentation to the vicarage of the church aforesaid, which now is full, of him the said *Thomas Heskett* of the presentation of the Lord the King, and their damages, to the value of the vicarage of the church aforesaid for half a year, which amount to 30*l.* by the jurors aforesaid in form aforesaid assessed; and that they have a writ to the said bishop, the ordinary of that place, that notwithstanding his reclaim, or the reclaim of the said *Thomas Heskett*, or either of them, altho' the same *Thomas* to the vicarage of the church aforesaid is admitted, instituted and inducted, the same *Thomas Heskett* from the vicarage of the church aforesaid he remove, and admit a proper person to the vicarage of that church, on the presentation of them the said *Thomas Freake*, *Charles Cooke* and *Charles D'Oyly*: And the said *Thomas Heskett* in mercy, &c.

Clarke and Masters and others.

WERE elected, tried and sworn; and it was given in evidence to the jurors aforesaid on the part of the said *John Masters*, *William Goode* and *Thomas Holmes*, that the said *John Masters* was an headborough, and that what he did was in the execution of his office of headborough aforesaid, and that what the said *William Goode* and *Thomas Holmes* did was in aid of the said *J. Masters*, and by his command; whereupon the jurors

Non suit at the assizes in trespass against an officer.

aforesaid from the bar here to consult to give their verdict thereon withdrew, and having consulted among themselves and agreed thereon, to give their verdict thereon to the bar here returned; whereupon the said *Thomas Clarke*, altho' solemnly called, doth not come, nor farther prosecute his bill within written against the said *John Masters*, *William Goode* and *Thomas Holmes*: Therefore, &c.

The judge's
certificate.

The defendants justify as headborough.

J. Holt.

Bluck and Wright one, &c.

Verdict for
the plaintiff
on a feigned
issue.

Afterwards the day and place within contained, before *John Holt*, Knt. the chief justice within written, *John Ince*, Gent. being associated to him, by the form of the statute, &c. comes as well the within named *William Bluck* the executor by his attorney within contained, as the within written *Henry Wright* in his proper person; and the jurors of the jury, whereof mention is within made, being called likewise come, who to say the truth of the within contained, being elected, tried and sworn, say on their oath, that the tallies and orders within mentioned were not delivered, neither was any of them delivered by the within named *William* the testator to the said *Henry* by way of gift of the principal money due on those tallies and orders, to the proper use and benefit of the said *Henry*, in manner and form as the said *William* the executor hath within by declaring alledged; and they assess the damages of him the said *William* the executor by the occasion within contained, besides his costs and charges by him about his suit in this behalf expended, to 12 *d.* and for those costs and charges to 53 *s.* 4 *d.* Therefore, &c.

Blandford and Ives.

Verdict in re-
plevin as to
part, that the
defendant did
not take nor
detain.

As to the re-
fidue that the
plaintiff did
not make any
tender.

Elected, tried and sworn: As to the taking and unjust detention of one rope of the within written three ropes by him the said *Thomas Ives* within supposed to have been taken and unjustly detained, in the first issue between the parties aforesaid within joined mentioned, say on their oath, that the said *Thomas Ives* did not take nor detain that rope, as the same *Thomas* hath within thereof by pleading alledged: And as to the within written gelding and rope of the within mentioned two geldings and ropes within first mentioned in the second issue between the parties aforesaid within joined specified, the jurors aforesaid farther say on their oath, that the said *John Blandford* did not offer to pay to him the said *Thomas Ives* the within mentioned 6 *l.* 13 *s.* in the plea within written first mentioned specified, as the same *Thomas* hath within thereof by rejoining alledged: And as to the gelding and rope of the within mentioned two geldings and ropes within last mentioned in the third issue within joined specified, the jurors aforesaid farther say on their oath, that the said *John Blandford* did not offer to pay to him the said *Thomas Ives* the within mentioned 6 *l.* 13 *s.* in the plea within written last mentioned specified, as the same *Thomas* hath within thereof by rejoining alledged: Therefore, &c.

Jacobson and another and Lees.

Verdict in re-
plevin for the
defendant.

SAY on their oath, that the said *Walter* on the within mentioned 20th day of February in the 4th year of the reign of the Lady the Queen within written in the declaration of the said *Theodore* and *James* within specified, did not of his own wrong, but for such cause by him the said *Walter* in his avowry within written alledged in the within mentioned place in which, &c. take the goods and chattels within contained of them the said *Theodore* and *James* in the declaration of them the said *Theodore* and *James* within specified, and them detain until, &c. as he lawfully might, as the said *Walter* hath within by pleading alledged: Therefore, &c.

Recognisance.

Recognisance.

England, to wit. **B**E it remember'd, that on *Thursday* next after 15 days of *Easter* The entry of
 in this same term before the Lady the Queen at *Westminster*, by a recognisance
John Turton, Knt. one of the justices of the said Lady the Queen, on a writ of
 assigned to hold pleas before the Queen herself here, it is recorded, that on the 14th day judgment in
 of *February* last past, before him the said justice, at his chambers situate in *Serjeants-Inn* K. B.
 in *Fleet-street*, *London*, came *John Rose* of *Marke-lane*, *London*, merchant, and *Timothy* Salk. 564,
 Possen of the same, merchant, in their proper persons, and according to the form of the 659.
 statute for preventing unnecessary delay of execution thereof made and provided, acknow- Praet. Reg.
 ledged that they owed, and each of them acknowledged that he owed, to *Andrew Stone*, 417.
 merchant, 1025 *l.* of lawful money of *England*, to be paid to the same *Andrew*, his exe-
 cutors or assigns; and unless they shall do it, the same *John* and *Timothy* grant, and each
 of them grants, that the said 1025 *l.* shall be made of their and each of their lands and
 chattels, and to the use of him the said *Andrew* levied: The condition of the said recogni-
 sance is such, that whereas the said *Andrew Stone* hath lately in the court of the Lord *Wil-*
liam the Third, late King of *England*, before the said late King himself, at *Westminster* by
 bill, without the writ of the said late King, and by the judgment of the same court, re-
 covered against *Nathaniel Long*, merchant, 512 *l.* 10 *s.* for his damages which he hath
 sustained, as well by reason of a certain trespass on the case to the same *Andrew* by the said
Nathaniel done, as for his costs and charges by him about his suit in that behalf expended,
 whereof he is convicted, as it appears on record in the court of the Lady the now Queen:
 And whereas the said *Nathaniel* hath prosecuted a writ of error upon the judgment afore-
 said, returnable before the justices of the Common Bench and the barons of the Exchequer
 of the degree of the coif in the Exchequer chamber on *Saturday* the 25th day of *April* in
 the first year of the said Lady the now Queen; if therefore the said *Nathaniel* doth prose-
 cute the said writ of error with effect, and if the judgment aforesaid be affirmed against the
 said *Nathaniel*, then if the same *Nathaniel* do satisfy and pay to the said *Andrew* the
 damages aforesaid, and also all such costs and damages as shall be adjudged to the said
Andrew by reason of the delay of his execution of the judgment aforesaid by the pretence
 of the prosecution of the said writ of error, then this present recognisance to be void and
 of no effect, otherwise to remain in its full force and effect.

Midd, to wit. **T**HE sheriff was commanded, that he should take *Martha Lundie* late The entry of
 of *Westminster* in the county aforesaid, widow, if, &c. and safely, &c. a recognisance
 so that he might have her body on this day, to wit, on the morrow of *All Souls*, to answer on a *capias* in
 to *Robert Petre* in a plea, why with force and arms the close of him the said *Robert* at case in C. B.
Westminster she broke, and other outrages, &c. to the great damage, &c. and against the
 peace, &c. and also in a certain plea of trespass on the case, on promise, to the damage of
 him the said *Robert* 30 *l.* And now here on this day comes *Joseph Somers* of *York-street*
 in *Covent-garden* in the county aforesaid, Gent. and *Alice Aribur* of *St. James's Street*
 in the county aforesaid, spinster, in their proper persons, before *Peter King*, Knight,
 and his companions, justices of the Bench here, and have acknowledged, and each
 of

of them hath acknowledged, that they owe to the said *Robert* the sum of 30 *l.* which said sum of 30 *l.* the same *Joseph* and *Alice* for themselves and their heirs have consented and granted, and each of them for himself and herself, and for his and her heirs, hath consented and granted shall be made of their and each of their lands and chattels, and to the use and behoof of the same *Robert* levied: And also on the same day here comes the said *Martha* in her proper person before the same justices, and hath acknowledged, that she owes to the said *Robert* the sum of 60 *l.* which said sum of 60 *l.* the same *Martha* for herself and her heirs hath consented and granted shall be made of her lands and chattels, and to the use and behoof of the same *Robert* levied, on this condition, that if judgment shall happen in the same court here in the said plea of trespass on the case to be given for the said *Robert* against the said *Martha*, then the same *Martha* shall satisfy all the damage which shall be adjudged to the said *Robert* against the said *Martha* in the same court here in the said plea of trespass on the case, or shall render her body in execution of such judgment to the prison of the *Fleet*, &c.

Ford against Taylor and another.

Trin. 2 George. Roll 1814.

The entry of
a *scire facias*
on a recogni-
sance on a
writ of error
in K. B. on a
judgment in
C. B.
Salk. 364.

2. The con-
dition.

Midd., to wit. **T**HE sheriff is commanded: Whereas *William Taylor* of the parish of *St. Margaret Westminster* in the county aforesaid, Gent. and *John Bailey* of *Grange-court Lincoln-Inn fields* in the county aforesaid, Gent. on the first day of *May* in the first year of the reign of the Lord the now King, came before *Robert Tracy*, Esq; one of the justices of the said Lord the King of the Bench, at his chambers situate in *Serjeants-Inn* in *Fleet-street*, *London*, and acknowledged, and each of them for himself severally acknowledged, that they owed to *John Ford* the sum of 100 *l.* to be levied on their and each of their lands and chattels; which said recognisance in form aforesaid taken, the same justice afterwards, to wit, on the 4th day of *May* in *Easter* term in the first year of the reign of the said Lord the now King above said, into the said court of the said Lord the King of the Bench aforesaid here, to wit, at *Westminster* in the county aforesaid, with his own proper hand delivered, in the same court of the said Lord the now King on record to be inrolled, and there in the same *Easter* term before *Peter King*, Knt. and his companions, justices of the same Lord the King of the Bench aforesaid, it is inrolled, as by the record thereof in the same court of the said Lord the now King here, to wit, at *Westminster* aforesaid remaining manifestly appears; which said 100 *l.* the said *William* and *John Bailey* have not yet paid, nor hath either of them paid to the same *John Ford*, as by the suggestion of the said *John Ford* the King had understood; and because, &c. that by good, &c. he give notice to the said *William* and *John Bailey* that they should be here on this day, to wit, from the day of the Holy *Trinity* in 15 days, to shew if any thing, &c. to wit, to the same *William*, why the said 100 *l.* by him in form aforesaid acknowledged of his lands and chattels, and to the said *John Bailey*, why the said 100 *l.* by him in form aforesaid acknowledged of his lands and chattels ought not to be levied and paid to the said *John Ford*, according to the form of the recognisance aforesaid, if, &c. And now here on this day come as well the said *John Ford* by *W. G.* his attorney, as the said *William Taylor* and *John Bailey* by *T. S.* their attorney; and the sheriff now returns, that he by virtue of the writ aforesaid to him directed, by *Edward Easton* and *S. Watson* good, &c. hath given notice to the said *William Taylor* and *John Bailey*, that they should be here on this day to shew in form aforesaid, &c. And the same *John Ford* prays execution against the said *William Taylor* and *John Bailey* for the debt and damages aforesaid, according to the form of the recognisance aforesaid, to be adjudged to him, &c.

Judgment by
default.

And the said *William Taylor* and *John Bailey* by *T. S.* their attorney come and defend the force and injury when, &c. and say nothing in bar of the *scire facias* of the said *John Ford* aforesaid, whereby the same *John Ford* remains against the said *William* and *John Bailey* therein undefended: Therefore it is considered, that the said *John Ford* have execution against the said *William* and *John Bailey* for the debt and damages aforesaid, according to the form of the recognisance aforesaid by the default of them the said *William* and *John Bailey*, &c.

AND

AND the said *T. Browne* by *John Normansell* his attorney comes and defends the force Imparlance. and injury when, &c. and prays leave to imparl; and it is granted him, &c. Upon which day therefore is given to the parties aforesaid before the Lord the King at *Westminster* until *Tuesday* next after three weeks of *St. Michael*, to wit, to the said *Thomas* to the bill aforesaid to imparl, and then to answer: And upon this come *Thomas Breton* of *Gray-friers, London*, merchant, and *Robert Breton* of *Mincing-lane, London*, merchant, in their proper persons, and have become pledges and bail, and each of them for himself hath become pledge and bail for the said *Thomas Browne*, that if the said *Thomas Browne* happens to be convicted in the plea aforesaid, then the same bail have granted, and each of them for himself hath granted, as well the debt aforesaid, as all such damages, costs and charges which to the said *John* may be in this behalf adjudged of their and each of their lands and chattels to be raised, and to the use and behoof of the said *John* levied, if the same *Thomas Browne* should happen not to pay the said debt, and those damages, costs and charges, or not render himself to the prison of the marshal of the *Marshalsey* of the Lord the King before the King himself on that account.

The entry of the recognisance of bail in K. B. on a bill of *Midd.* Salk. 564.

Lloyd against Campbell.

Great Britain, to wit. THE Lady the Queen hath sent to the sheriff of *Middlesex* her writ close in these words, to wit, *Anne* by the grace of God, of Great Britain, France and Ireland Queen, defender of the faith, &c. To the sheriff of *Middlesex*, greeting: Whereas *Thomas Lloyd*, Esq; hath lately in our court before *Thomas Trevor*, Knt. and his companions, our justices of the Bench, by our writ and by the judgment of the same court recovered against *Colen Campbell* late of *London*, merchant, otherwise called *Colen Campbell* late of *Newfoundland*, merchant, now in *London*, 120 l. debt, and 12 l. 10 s. for his damages which he sustained, as well by reason of the detention of that debt, as for his costs and charges by him about his suit in that behalf expended, whereof the same *Colen* is convicted, as by the inspection of the record and proceedings thereof, which we lately for certain causes of error caused to be brought into our court before us, appears to us on record: And whereas *David Hamilton* late of *Dowgate-bill, London*, merchant, and *James Campbell* late of *Fann-court in Fenchurch-street, London*, bookseller, lately in our court of the Bench aforesaid, to wit, in *Michaelmas* term in the 4th year of our reign before the said *Thomas Trevor*, Knt. and his companions, our justices of the Bench aforesaid, at *Westminster* have acknowledged, and each of them hath acknowledged, that they owe to *Thomas Lloyd* the sum of 240 l. which said sum of 240 l. the same *Alexander* and *James* for themselves and their heirs have consented and granted, and each of them hath consented and granted, to be raised of their and each of their lands and chattels, and to the use and behoof of the same *Thomas* levied, upon this condition, that if judgment should happen to be given for the said *Thomas Lloyd* against the said *Colen Campbell* in the said plea of debt on the demand of 120 l. by the said *Thomas Lloyd* against the said *Colen Campbell* in our same court of the Bench prosecuted, then the same *Colen* the said debt of 120 l. and likewise all the damages which to the same *Thomas Lloyd*, by reason of the detention of that debt in our same court of the Bench should be adjudged, should satisfy, or his body in execution of such judgment to the prison of the *Fleet* should render: And whereon in our same court of the Bench aforesaid, before the said *Thomas Trevor*, Knt. and his companions, our justices at *Westminster*, it hath been considered by the same court, that the said *Thomas Lloyd* should have execution against the said *Alexander* and *James* of the said several sums of 240 l. of their and each of their lands and chattels respectively to be levied, according to the form and effect of the recognisance aforesaid, as by the inspection of the record and proceedings, as well in the rendition of the judgment aforesaid, as in the adjudication of the execution of the same judgment into our said court before us at *Westminster* in order to correct error transmitted, and in our same court before us now remaining, appears to us on record: And now on the part of the said *T. L.* we have understood, that judgment is given against the said *Colen Campbell* for the debt and damages aforesaid, and also execution is adjudged for the said *Thomas* against the said *Alexander Hamilton* and *James*, the bail aforesaid of the said *Colen*, of the said several sums of 240 l. Execution nevertheless of the several judgments aforesaid to the said *Thomas* yet remains to be made; wherefore the same *Thomas Lloyd* hath besought us to grant him his proper remedy in this behalf; and we being willing that what is just in this behalf should be done, command you, that by good and lawful men

The entry of a *scire facias* on a recognisance of bail in debt in C. B.

The recovery.

Error.

The recognisance.

Judgment on the recognisance.

Error.

Scire facias. of your bailiwick you give notice to the said *Colen* that he be before us from the day of the Holy Trinity in three weeks, wheresoever we shall then be in *Great Britain*, to shew if he hath or can say any thing for himself, why the said *Thomas* ought not to have his execution against him of the debt and damages aforesaid, according to the force, form and effect of the recovery of the judgment aforesaid, and also in form aforesaid give notice to the said *Alexander* and *James*, the bail aforesaid, that they be before us on the same day and place, to shew if they have or can say any thing for themselves, why the said *Thomas* ought not to have his execution against them of the several sums of 240*l.* according to the force, form and effect of the recognisance, and the adjudication of execution aforesaid, if they shall think fit; and farther to do and receive what our same court before us shall consider concerning them in this behalf; and have there the names of those by whom you shall give them notice, and this writ. Witness *J. Holt*, Knt. at *Westminster* 13th day of *June* in the 6th year of our reign: On which day before the Lady the Queen at *Westminster* comes the said *Thomas Lloyd*, in his proper person; and the sheriff of *Middlesex*, to wit, *William Benson*, Knt. and *Ambrose Crawley*, Knt. returns, that the said *Colen*, *Alexander* and *James* have nothing, nor hath any of them any thing in his bailiwick whereby he can give them or any of them notice, neither are they, nor is any of them, found in the same: And the said *Colen*, *Alexander* and *James* have not come, nor hath any of them come: Therefore as before the sheriff of the county of *Middlesex* is commanded, that by good and lawful men of his bailiwick he give notice to the said *Colen*, *Alexander* and *James*, that they be before the said Lady the Queen from the day of *St. Michael* in three weeks, wheresoever, &c. to shew in form aforesaid, if, &c. and farther, &c. The same day is given to the said *Thomas*, &c. On which day before the said Lady the Queen at *Westminster* comes the said *Thomas* in his proper person; and the said sheriff of the county of *Middlesex* aforesaid as before returns, that the said *Colen*, *Alexander* and *James* have nothing, nor hath any of them any thing in his bailiwick whereby he can give notice to them, or any of them, neither are they found, nor is any of them found in the same; and the said *Colen*, *Alexander* and *James* have not come, nor hath any of them come, but have made default: Therefore it is considered, that the said *Thomas* have his execution against the said *Colen* for the debt and damages aforesaid, according to the force, form and effect of the recovery aforesaid, by the default of him the said *Colen*: It is also considered, that the said *Thomas* have his execution against the said *Alexander* and *James* of the said several sums of 240*l.* and 240*l.* in form aforesaid respectively acknowledged of their lands and chattels respectively to be levied, by the default of them the said *Alexander* and *James*, &c.

Nichil returned.

An alias awarded.

Nichil returned.

Judgment.

Rules.

THE 9th day of July, on the oath of G. N. it is ordered, that the defendant do on Monday on the Octave of the Holy Trinity, on notice of this rule to him or his attorney given, shew cause to the court here, why the curfitor of London should not amend the original writ filed with the *custos brevium* of this court, by adding the name of one of the plaintiffs omitted in that writ, on payment of costs to the defendant or his attorney, upon the writ of error to this day, by the prothonotary George Cooke, Knt, to be taxed, if the defendant shall not farther proceed in that writ, and why the plaintiff should not proceed to enter a *nonpros*, or to affirm the judgment in the King's Bench without payment of costs to the plaintiff by the defendant in that behalf.

Rule to amend the original on a writ of error brought.

Clitheroe against Francklyn.

Trin. 11 W. 3.

THE 23d of June, on the oath of Joseph Hope, Gent. and upon hearing Robert Wareing, now one of the attornies of this court, and late clerk in court on the part of the demandant now deceased; whereby it sufficiently appears to the court here that the verdict was given for the tenant, and judgment thereon was signed, but the *possea* with the writ of *babeas corpora juratorum*, and the panel thereto annexed, hath lost by misfortune been lost: It is ordered, that the like record shall be ingrossed, and that a *babeas corpora* be made anew and returned, and a verdict on the *possea* be returned by the associate of the Lord Chief Justice of this court, and that judgment be thereon entred according to the said verdict.

Rule to make a new nisi prius record, &c. the original being lost. Pract. Reg. 57, 69.

By the court. Treasury.

King, who as well, &c. against Bolton and others.

Friday next after the Octave of St. Hillary, 5 Geo.

UPON reading the oaths of John P. and William W. it is ordered, that the defendant in error have leave to make a new roll of the proceedings and judgment in this cause in lieu of the roll of this court lately thereof made, which by misfortune (as it appears to the court) is lost, and that such roll so to be made anew be filed on record in the court here, by the direction and inspection of Mr. Clarke: On the motion of Sir Edward Northey.

Rule to make a new roll of all the proceedings, the original being lost.

By the court.

Grindall

*Grindall against Leighton.**Tuesday next after the morrow of All Souls, 6 Ann.*

Rule to amend errors assigned.

IT is ordered, that the plaintiff in the writ of error have leave to amend the errors assigned within ten days next ensuing: On the motion of Mr. *Eyre*.

By the court.

*Thornby against Fleetwood.**Tuesday next after the morrow of All Souls, 7 Geo.*

Rule to expedite the determination of a cause where the court are divided.

THE court being divided in opinion, with the assent and at the instance of the most noble Dutches of *Hamilton*, being the lessor of the plaintiff in error, to expedite the determination of this cause in the house of Lords, it is ordered, that the judgment be affirmed: On the motion of Mr. *Strange*.

By the court.

For fuller information herein, see the statute 4 *Ann. c. 16.* for amendment of the law; And the statute 5 *Geo. 1. c. 13.* for amendment of writs of error, and for the farther preventing the arresting and reversing of judgments after verdict.

Warrant

Warrant of attorney.

THE chancellor, masters and scholars of the university of *Oxford*, To all christian people to whom this present writing shall come, greeting: Know ye, that we the said chancellor, masters and scholars, have made, ordained and constituted, and in our place put, and by these our present letters do make, ordain and constitute, and in our place put our beloved in Christ *John Lilly* and *William Whitehead*, Gent. and each of them, our true and lawful attornies, deputies, agents and factors, jointly and severally for us, and in our name and stead, to demand, challenge, prosecute and defend all and singular our liberties and privileges, and especially to claim and prosecute to have the cognisance as well of a certain plea of trespass in the court of the Lord and Lady the now King and Queen of England, &c. depending between one *Peter Parker*, plaintiff, and *Jonathan Edwards*, professor of divinity, and *William Sherwin*, beadle, defendants; which said defendants are privileged persons of the said university, to wit, the said *Jonathan Edwards*, principal of *Jesus College* in the university of *Oxon*, and *William Sherwin*, beadle of the university of *Oxon*, as of all and singular pleas, actions and causes whatsoever, (felony, maihem and assises, and pleas of freehold, only excepted) where a scholar or other person of the said university is one of the parties in the court of the said university, before him the said chancellor or his deputy to be held; and also to claim, demand, prosecute and defend, all and all manner of liberties and privileges for any person whatever rightfully and lawfully privileged. In witness whereof we have caused the seal of the office of chancellorship of the said university of *Oxford* to be put to these presents. Dated the 24th day of the month of *May* in the year of the Lord 1692.

Nich. Villet, Dep. Reg.

Salop, to wit. **R**obert Beachcroft, Esq; sheriff of the county of *Salop* aforesaid, according to the form of the statute in such case made and provided, puts in his place *John Allen*, to receive, open, break, return and execute all writs and precepts to him directed and to be directed, and before the Lady the Queen returnable or to be returned.

Warrant of attorney by a sheriff.
23 H. 6. c. 10.

The entry of *Midd*, to wit. **T**HE sheriff of *Middlesex* was commanded: Whereas *Thomas B.* late of a judgment on a *scire facias* in C. B. against the bail to a new original on the reversal of an outlawry. 31 El. c. 3. § 3. 4 & 5 W. & M. c. 4.

P. in the county of *Chester*, yeoman, *Robert S.* late of the same, yeoman, and *John H.* late of the same, yeoman, lately, to wit, on the 28th day of *February* in the second year of the reign of the Lady the now Queen, before *Peter W.* Esq; a commissioner by the justices of the said Lady the Queen of the Bench here constituted, according to the form of the statute in such case made and provided, became bail, and each of them became bail for *William M.* late of *London*, Esq; otherwise called *William M.* of *P.* in the county of *Chester*, Esq; in the sum of 600 *l.* that the said *William* should appear in the said court of the Bench, to a certain original writ by one *Matthew C.* against him the said *William* in a certain plea of debt on a demand of 600 *l.* before the end of two terms then next ensuing to be sued out, and to answer to the same *Matthew* in the same plea; and also if judgment should happen to be given in the same plea for the said *Matthew C.* against the said *William*, that then the said *William* should render his body in execution of the judgment aforesaid in the said court here, or should pay the said *Matthew* the debt and the damages to him in the same plea to be adjudged; which said sum the said *Thomas*, *Robert* and *John* severally acknowledged, and every of them by himself severally acknowledged, of their lands and chattels to be made, and to the use and behoof of the said *Matthew* levied, if the said *William* should happen to make default in any of the premisses, and be thereof lawfully convicted, for which said debt of 600 *l.* the said *William* at the suit of the said *Matthew* was outlawed in the same court of the Bench, and the same outlawry is now reversed and annulled; which said recognisance the said *Peter W.* hath duly transmitted to *Thomas Trevor*, Knt. and his companions, then justices of the Bench aforesaid, to be inrolled, and before them in the court aforesaid it is inrolled, as by the record and proceedings thereof in the same court of the Bench here remaining manifestly appears: And altho' the said *Matthew* afterwards, to wit, in *Trinity* term in the 4th year of the reign of the said Lady the Queen, did recover against the said *William* the said 600 *l.* the debt aforesaid, and also 16 *l.* for his damages by reason of the detention of that debt, as it likewise appears on record: Nevertheless the said *William* his body in execution of the judgment aforesaid in the same court before the said justices of the said Lady the Queen of the Bench aforesaid hath not render'd, nor hath the said *William* paid the said *Matthew* the debt and the damages aforesaid, as by the suggestion of him the said *Matthew* we have understood; and because, &c. that by good, &c. he should give notice to the said *Thomas B.* *Robert* and *John*, that they be before the justices of the said Lady the Queen here on this day, to wit, from the day of *Easter* in 15 days, to shew if any thing, &c. why the said 600 *l.* by them in form aforesaid acknowledged should not be made of their lands and chattels, and paid to the said *Matthew*, according to the force, form and effect of the recognisance aforesaid, if, &c. And now here on this day comes the said *Matthew* by *J. L.* his attorney; and the sheriff, to wit, *Charles P.* Knt. and *Benjamin G.* Knt. now returns, that the said *Thomas*, *Robert* and *John* have nothing, nor hath any of them any thing, &c. neither are they, nor is any of them found, &c. And upon this the said *Matthew* prays execution against the said *Thomas B.* *Robert S.* and *John H.* of the said 600 *l.* by them in form aforesaid severally acknowledged, of their lands and chattels to be made, according to the form and effect of the recognisance aforesaid, to be adjudged to him, &c. And the said *Thomas*, *Robert* and *John*, altho' on the fourth day of plea solemnly called, do not come, nor doth any of them come: Therefore it is considered, that the said *Matthew C.* have execution against the said *Thomas*, *Robert* and *John*, to wit, against the said *Thomas* of the said 600 *l.* by him in form aforesaid acknowledged, and against the said *Robert* of the said 600 *l.* by him in form aforesaid acknowledged, and against the said *John* of the said 600 *l.* by him in form aforesaid acknowledged, by the default of them the said *Thomas*, *Robert* and *John*, &c.

By Michaelmas record in the 4th year of the reign of King George.

Stafford, to wit. **I**T is found elsewhere in the memorandums of this Exchequer of the 4th year of the reign of the now Lord King *George*, to wit, among the common rolls of this *Michaelmas* term, on the part of the remembrancer of this court, in these words, to wit, *Stafford*, to wit, Be it remembred, that *Roderick Lloyd*, the clerk of the outlawries, present here in court on the 23d day of *October* in this term, hath delivered here into court the transcript of a certain writ of outlawry against *Edward Whittakers* and *Isaac Whittakers* pronounced, and of the inquisition thereon taken to make farther execution thereon for the said Lord the King, the tenor of which said transcript follows in these words, to wit, *George* by the grace of God, of *Great Britain, France and Ireland* King, defender of the faith, &c. To the sheriff of *Stafford*, greeting: We command you, that you do not omit on account of any liberty of your county, but by the oath of good and lawful men of your county you diligently inquire what goods and chattels, lands and tenements, *Edward Whittakers* late of *London*, yeoman, otherwise called *Edward Whittakers* of *Odd Road* in the county of *Chester* afore said, yeoman, (father of the said *John*) and *Isaac Whittakers* late of *London*, yeoman, otherwise called *Isaac Whittakers* of *Woolwarbampton* in the county of *Scaffold*, ironmonger, have or had in your bailiwick on *Monday* next before the feast of the Conversion of *St. Paul* in the 2d year of our reign, or ever after, on which day they were outlawed in *London* at the suit of *John Fox* in a plea of debt, as our sheriffs of *London* to our justices at *Westminster* on a certain day now past have returned, and those by their oath you cause to be extended and appraised, according to the true value of the same, and them which by that inquisition you shall find into our hands take and safely cause to be kept, so that of the true value and the issues of the same you may answer to us; and they being so extended and appraised, what you shall do therein make known to our justices at *Westminster* from the day of *St. Michael* in three weeks distinctly and openly under your seal and the seals of those by whose oath you shall make that extent and appraisement: And because the same *Edward* and *Isaac* outlawed run up and down and secrete themselves in your county, in contempt of us, and to the prejudice of our crown, as we have understood, we command you, that you take the said *Edward* and *Isaac* wheresoever they shall happen to be found in your bailiwick, as well within liberties as without, and them safely keep, so that you may have their bodies before our justices at *Westminster* at the said time to do and receive what our court shall consider concerning them in this behalf; And have there this writ. Witness *P. King*, Knt. at *Westminster* 20th day of *June* in the second year of our reign. *Whisbaw B.* (21) *Northey*.

The pleading of a mortgage in bar to an outlawry.

The within named *Edward Whittakers* is not found in my bailiwick, the residue of the execution of this writ appears in a certain schedule to this writ annexed. *Thomas Birch*, Esq, sheriff. *Stafford*, to wit, An inquisition indented taken at *Newcastle under Line* in the county afore said on the 10th day of *October* in the 3d year of the reign of our Lord *George*, now King of *Great Britain, &c.* before me *Thomas Birch*, Esq, sheriff of the same county, by virtue of the writ of the said Lord the King to me directed, and to this inquisition annexed, by the oath of *John Aspinall*, *Henry Robinson*, *Thomas Hollins*, *Richard Beath*, *Thomas Williamson*, *Ralph Adams*, *John C. John T. Edward H. John P. George T.* and *John L.* good and lawful men of my bailiwick, who being sworn and charged, on their oath say, that *Edward W.* in the writ afore said named, on *Monday* next before the feast of the Conversion of *St. Paul* in the second year of the reign of the said Lord the King, on which day he was outlawed in *London* at the suit of *John F.* in a plea of debt, was seised in his demesne as of freehold, and yet is seised for the term of his life of and in one messuage with the appurtenances, and 13 closes or parcels of land to the same messuage belonging, containing, by estimation 40 acres of land more or less, situate, lying and being in *Gratton* in the county of *Stafford* afore said, of the clear yearly value in all issues, besides reprises, 10 l. now or late in the tenure of *Mary Stretch*, the wife of *Samuel Stretch*; and that the said *Edward Whittakers* is yet surviving and in full life: All and singular which said premises with the appurtenances above specified, I the said sheriff on the said day of the caption of this inquisition into the hands of the said Lord the now King have taken and caused to be seised, as by that writ I am commanded: And the jurors afore said farther on their oath say, that the said *E. Whittakers* hath no goods or chattels, nor other or more lands and tenements in my bailiwick at the time of the outlawry afore said, or ever after, to the knowledge of the jurors afore said. In witness whereof to one part of this inquisition remaining with the said jurors, I the said sheriff have put my seal, and to the other part of the same as well I the said sheriff as the jurors afore said have severally put our seals, the day and year first above said

abovesaid. *Thomas Birch*, Esq; sheriff. Examined by me *Roderick Lloyd*, clerk of the outlawries, 23d day of *October* in the 4th year of the reign of the Lord *George*, now King of *Great Britain*, &c. and in the year of the Lord 1717, as it is there contained.

And now, to wit, on the 28th day of *November* in this term comes here one *S. T.* of *Odd Road* in the county of *Chester*, Gent. the tertenant of the said one messuage with the appurtenances, and 13 closes or parcels of land to the same messuage belonging, containing by estimation 40 acres of land more or less, situate, lying and being in *Gratton* in the county of *Stafford*, and other premises in the inquisition aforesaid specified, and into the hands of the said Lord the King taken and seised by *Gabriel Armiger* his attorney; and prays *oyer* of the said transcript of the writ of outlawry aforesaid, and of the inquisition aforesaid; and to him they are read: Which being read and heard, and by him understood, he complains that he is by colour of the premises greatly troubled and molested, and the said messuage, lands, tenements and other the premises above in this plea mentioned, parcel, &c. into the hands of the said Lord the King, by colour of the premises, by the said sheriff taken and seised; and this unjustly, because by protesting, that the transcript of the writ of outlawry aforesaid, and the inquisition aforesaid, and the matter in the same contained, are insufficient in law, to which he hath no necessity, nor is by the law of the land obliged in any manner to answer: For plea nevertheless the said *S. T.* says, that long before the day in the writ aforesaid mentioned of the caption of the inquisition aforesaid, and also long before the pronouncing of the outlawry aforesaid, to wit, on the 10th day of *January* in the 33d year of the reign of *Charles* the Second, late King of *England*, one *T. B.* of *Moreton* in the county of *Chester* aforesaid, Bart. was seised in his demesne as of fee, among others, of and in the said premises above in this plea mentioned, parcel, &c. and so being thereof seised, afterwards, to wit, on the same 10th day of *January* in the 33d year abovesaid, for and in consideration of 80*l.* of lawful money of *England* to the said *T. B.* by one *T. S.* in hand paid, and for other considerations in the same indenture mentioned, he the said *T. B.* at the parish of *Gratton* in the county of *Stafford* aforesaid, by his certain indenture between him the said *T. B.* by the name of *T. B.* of *M.* in the county of *Chester*, Bart. on the one part, and the said *T. S.* by the name of *T. S.* of *Gratton* in the parish of *H.* in the county of *Stafford*, yeoman, of the other part, (one part of which indenture sealed with the seal of the said *T. B.* and here in court now produced, the date whereof is the day and year last mentioned) did demise and grant to the said *T. S.* the premises aforesaid above in this plea before mentioned, parcel, &c. (among other) by the name of all that his third part of the messuage, house, closes, crofts, orchards, hemp-butts and barns, situate, lying and being in *G.* in the parish of *H.* in the county of *Stafford* aforesaid, with all his third part of all other edifices, buildings, barns, stables, and other outhouses whatsoever to the said messuage belonging, with all and singular the several parcels of land, closes, pastures and meadows in the same indenture specified and described, to wit, in *Russey Croft* 10 butts, in *New Close* upon *Whiston* 11 butts, in the said close upon *Cchurchway Hatt* two butts, in the said close upon *Vigans Lands* two butts, and in the said close upon *Boughland Flatt* 3 butts, and also in *Townfield* upon *Longland Flatt* 7 butts, and also 3 closes of pasture or parcels of land, commonly called or known by the name of *The Flatts*, with one half day's mowing in *Dole Meadow*, and one half day's mowing in *Flax Meadow*, all the said closes, pastures or parcels of land, containing by estimation 13 acres and three quarters of an acre, situate, lying and being in *Gratton* aforesaid in the parish of *H.* and county of *Stafford* aforesaid, and then or late in the possession or occupation of the said *T. S.* or his assigns; To have and to hold all the said messuages, houses, closes, crofts, orchards, hemp-butts and edifices, buildings, barns, stables and other outhouses whatsoever, with the said several parcels of land with their appurtenances, from the day of the date of the same indenture for the term of the natural life of the said *T. S.* and *R. S.* the son of *G. S.* of *Newbold Ashbury* in the county of *Chester*, yeoman, and *E. A.* the son of *E. A.* of *Odd Road* in the county of *Chester* aforesaid: By virtue of which said premises the said *T. S.* at *G.* aforesaid in the county of *S.* aforesaid entred, and was seised in his demesne as of freehold (among other) of and in the said messuage, lands, tenements, and all and singular the other premises above in this plea before mentioned, parcel, &c. and so being thereof seised, long before the pronouncing of the outlawry aforesaid, afterwards, to wit, on the 12th day of *May* in the 36th year of the reign of *Charles* the Second, late King of *England*, the said *T. S.* in his life-time, at the parish of *Gratton* aforesaid in the county of *Stafford* aforesaid, made his last will and testament in writing, and thereby devised to the said *Edward Whittakers* and his assigns the premises aforesaid above in this plea before mentioned, parcel, &c. (among others) by the name of all that his messuage with all his lands and tenements thereto belonging, lying and being in *G.* aforesaid in the manor of *H.* in the county of *Stafford* aforesaid, during the term of the natural life of the said *Edward A.* the son of *Edward A.* of *Odd Road* in the county of *Chester* aforesaid, yeoman, and of *Ralph S.* son of *George S.* of *Newbold A.* in the county of *Chester* aforesaid,

or either of them; which will, sealed with the seal of the said *Thomas S.* is here in court now produced, the date whereof is the day and year last mentioned, and afterwards, to wit, the same day and year, he the same *Thomas S.* at *G.* aforesaid in the county of *Stafford* aforesaid died; after whose death, and by virtue of which said premisses, the said *Edward W.* entred, and was seised in his demesne as of freehold (among other) of and in the said messuage, lands, tenements, and all and singular other the premisses above in this plea before mentioned, parcel, &c. and so being thereof seised, long before the day in the writ aforesaid mentioned, or the caption of the inquisition aforesaid, and also long before the pronouncing of the outlawry aforesaid, afterwards, to wit, on the fourth day of *May* in the 12th year of the reign of the Lady *Anne*, late Queen of *Great Britain*, for and in consideration of 267 *l.* 5s. of lawful money of *Great Britain* to the said *Edward W.* in hand paid by the said *Samuel T.* he the same *Edward W.* at the parish of *G.* aforesaid in the county of *Stafford* aforesaid, by his certain indenture between the said *Edward W.* by the name of *Edward W.* of *Odd Road* in the county of *Chester*, Gent. of the one part, and the said *Samuel T.* by the name of *Samuel T.* of *Odd Road*, Gent. of the other part; which said indenture sealed with the seal of the said *T. W.* is here in court now produced, the date whereof is the day and year last mentioned, granted, bargained and sold to the same *Samuel T.* his executors, administrators and assigns, all and singular the messuages, lands and premisses with the appurtenances, and all the estate, right, title, interest, claim and demand whatsoever of him the said *Edward W.* of, in and to the premisses aforesaid; To have and to hold to the said *Samuel T.* his executors, administrators and assigns, from the 25th day of *March* next ensuing for and during the term of 99 years, if the said *Edward W.* should so long live: By virtue of which said premisses, he the same *Samuel T.* afterwards, to wit, on the same 25th day of *March* in the year aforesaid, at the parish of *G.* aforesaid in the county of *Stafford* aforesaid entred, and was thereof possessed of and in the said messuages, lands, tenements, and all and singular the other premisses above in this plea before mentioned, parcel, &c. for the term aforesaid; according to the form and effect of the indenture aforesaid; and being thereof so possessed, until the same premisses by the sheriff into the hands of the said Lord the King by colour of the writ aforesaid, and the inquisition aforesaid, were taken and seised: Which all and singular the same *Samuel T.* is ready to verify, as the court, &c. with this, that the term aforesaid is yet in being and subsists, and that the premisses aforesaid in the inquisition aforesaid mentioned, and the premisses aforesaid in the said several indentures, and the last will aforesaid in this plea above before mentioned, parcel, &c. are one and the same, and not other nor different: Wherefore he prays judgment, and that the hands of the said Lord the King from the possession of the premisses aforesaid in the inquisition aforesaid mentioned may be removed, and that he the said *Samuel T.* to his possession thereof, together with the issues and profits thereof, whereof the said Lord the now King is not yet answer'd, may be restored; and that as well the said *Thomas B.* Esq; late sheriff of the county of *Stafford* aforesaid, as all others from thence, now and who hereafter shall be sheriffs of the county of *Stafford* aforesaid, from the issues and profits of the same premisses in their accounts against the said Lord the now King, his heirs and successors, may be discharged, and every of them may be discharged; and that he the said *Samuel T.* as to the premisses from this court may be dismissed, &c.

Borrett.

Mich. 11 Ann.

Surry, to wit. **T** *Thomas A.* late of the parish of *St. Andrew Holborn* in the county of *Middlesex*, merchant, and *Jane* his wife, *Alexander M.* late of the same in the county of *Middlesex*, Gent. and *Eleanor* his wife, and *Elizabeth B.* late of *Guildford* in the county of *Surry*, widow; which said *Jane*, *Eleanor* and *Elizabeth*, and one *Anne C.* now deceased, whom the said *Jane*, *Eleanor* and *Elizabeth* survived, were the daughters and coheiresses of *Christopher C.* otherwise lately called *Christopher C.* of *Crawley* in the county of *Surry*, Gent. and devisees of sundry lands and tenements of which the said *Christopher* died seised in his demesne as of fee, *Richard B.* late of in the county of *Sussex*, *Thomas B.* late of in the county of *Sussex*, yeoman, and *John M.* late of *Crawley* in the county of *Sussex*, yeoman, surviving devisees of the manor and sundry other lands and tenements of which the said *Christopher* died seised, by the said *Christopher* by his will devised to the same *R. B. Thomas B.* and *John M.* and to one *Richard H.* late of *Hascombe* in the county of *Surry*, and now deceased, whom the said *Richard B. Thomas* and *John* survived, were summoned to answer *Henry T.* executor of the will of *John H.* in a plea that they render to him 60 *l.* which

Debt against the heir and devisee by an executor.
3 & 4 W. & M. c. 14.

6 T

they

they unjustly detain from him, &c. And whereon the same *Henry* by *John C.* his attorney says, that whereas the said *Christopher*, the father of them the said *Jane*, *Eleanor*, *Anne* and *Elizabeth*, whose surviving heirs and devisees they the said *Jane*, *Eleanor* and *Elizabeth* are, in the life-time of him the said *Christopher*, to wit, on the 29th day of *September* in the 4th year of the reign of the Lord *James* the Second, late King of *England*, &c. at *Guildford* in the county of *Surry*, by his certain writing obligatory acknowledged himself to be bound to the said *John H.* in his life-time in the said 60*l.* to be paid to him when he should be thereto required, and to the same payment well and truly to be made, the said *Christopher* in his life-time bound himself and his heirs by the same writing: And whereas the said *Christopher* in his life-time was seised in his demesne as of fee of and in the manor and several tenements and premises with the appurtenances in the said county of *Surry* hereafter mentioned to be particularly devised; and being so thereof seised, the same *Christopher* after the 25th day of *March* in the year of the Lord 1692, to wit, on the 11th day of *January* in the year of the Lord 1694 at *Guildford* aforesaid made his will in writing, and by his same will gave and devised to the said *Richard H.* now deceased, *Richard B.* *Thomas B.* and *John M.* and their heirs, the manor, messuage or tenement, farm, lands, meadows, pastures, feedings, woods, rents, tenements and hereditaments whatsoever with the appurtenances, called or known by the name of *Woodham*, situate within the parish of *Chertsey* in the said county of *Surry* aforesaid, and by his said will gave and devised to the said *Richard H.* *Richard B.* *Thomas B.* and *John M.* and their heirs, one messuage and sundry lands with the appurtenances, known by the name of *Stubbs*, parcel of *New-Park* in *Crawley* in the county of *Surry* aforesaid; and also by his said will gave and devised to the said *Eleanor*, *Elizabeth*, *Anne* and *Jane*, their heirs and assigns, one messuage, and sundry lands and hereditaments called *New-Park* in *Crawley* aforesaid; and afterwards, to wit, on the first day of *March* in the year of the Lord 1694 aforesaid, at *Guildford* aforesaid died, of such his estate of and in the manor, messuages, lands and tenements aforesaid with the appurtenances so as aforesaid respectively devised seised; after whose death, and before the day of the issuing of the original writ of him the said *Henry*, to wit, the same day and year last mentioned, at *Guildford* aforesaid, the said *Jane*, *Eleanor*, *Anne* and *Elizabeth*, *Richard H.* *Richard B.* *Thomas B.* and *John M.* to their legacies aforesaid to them so as aforesaid respectively devised agreed, and were respectively seised of the manor, messuages, lands and tenements aforesaid, to them so as aforesaid devised, by virtue of the several devises aforesaid: Nevertheless the said *Christopher* in his life-time, or the said *Jane*, *Eleanor*, *Anne* and *Elizabeth*, in the life-time of the said *Anne*, or the said *Richard H.* *Richard B.* *Thomas* and *John M.* in the life-time of the said *Richard H.* or the said *Jane*, *Eleanor*, *Elizabeth*, *Richard B.* *Thomas* and *John M.* after the several deaths of the said *Christopher*, *Anne* and *Richard H.* altho' often required, the said 60*l.* to the said *John H.* in his life-time, or to the same *Henry* after his death, have not paid, nor hath any of them paid, but the same to the said *John H.* in his life-time, and to the said *Henry* after his death, have altogether refused to pay, and the said *Jane*, *Eleanor*, *Elizabeth*, *Richard B.* *Thomas* and *John M.* after the several deaths of the said *Christopher*, *Anne* and *Richard H.* the said 60*l.* to the same *Henry* after the death of the said *John H.* have hitherto altogether refused, and yet do refuse to pay, and the same unjustly detain, whereby he says that he is prejudiced, and hath damage to the value of 20*l.* And therefore he produces the suit, &c. And the same *Henry* produces here in court as well the writing aforesaid, which the debt aforesaid in form aforesaid testifies, the date whereof is the said _____ as the letters testamentary of the said *John H.* aforesaid; whereby it sufficiently appears to the court here, that he the said *Henry* is executor of the will of the said *John H.* aforesaid, and thereof hath the administration, &c.

Select writs.

To admit a clerk.

WILLIAM, &c. To the reverend father in Christ *Jonathan* bishop of *Exeter*, greeting: Whereas *T. Freake*, Esq; *E. Cooke* and *C. D'Oyly*, Gent. have lately in our court before *T. Rokeby*, Knt. one of our justices assigned to hold pleas in our court before us, our justice assigned to take assises in the county of *Devon*, by our writ of *quare impedit*, and by the consideration of the same justice of assise, recovered against *T. H.* clerk, their presentation to the vicarage of the church of *B.* in our county of *Devon* and your diocese, which became vacant and belonged to their presentation; and that the said *T. F. &c.* and should have our writ to you the said bishop, the ordinary of that place, to be directed, that notwithstanding your reclaim, or the reclaim of the said *T. H.* altho' the same *T. H.* to the vicarage of the church aforesaid is admitted, instituted and inducted, the same *T. H.* from the vicarage of that church you should remove, and to the vicarage of that church, on the presentation of the said *T. F. &c.* a proper person you should admit, whereof the same *T. H.* is convicted, as by the inspection of the record and proceedings thereof, which for certain causes of error we have caused to be brought into our court before us, appears to us on record: And whereof in our same court before us at *Westminster* it is considered, that the said *T. F. &c.* should have their execution against the said *T. H.* according to the form and effect of the recovery aforesaid, by the default of him the said *T. H.* as appears likewise to us on record: We therefore command you, that notwithstanding your reclaim, or the reclaim of the said *T. H.* altho' the same *T. H.* to the vicarage of the church aforesaid is admitted, instituted and inducted, him the said *T. H.* from the vicarage of that church you do remove, and a proper person to the vicarage of that church, on the presentation of the said *T. F. &c.* you do admit; and how you shall have executed this our writ certify to us from the day of wherefoever we shall then be in *England*; And have there this writ. Witness *John Holt*, Knt. &c.

A writ to the bishop to remove the present clerk, and to admit the clerk of the plaintiffs in the *quare impedit*.

WILLIAM the Third, &c. To the reverend father in Christ *Thomas* bishop of *Litchfield* and *Coventry*, greeting: Know ye, that we in our court before us, by the consideration of the same court, have recovered our presentation against you and *Thomas Atterbury*, clerk, to the prebend of *Totness* in the collegiate church of *St. Peter*, being vacant and belonging to our donation, whereof we brought our writ of *quare impedit* in our same court against you and the said *Thomas Atterbury*, as by the inspection of the record and proceedings thereof, which we lately for certain reasons of error caused to be brought into our said court before us, appears to us on record; and whereon in our same court before us it is considered, that we may have against you and the said *Thomas Atterbury* execution: But because it is not known whether the canonship and prebend aforesaid be full or not, how much that canonship and prebend is worth by the year, according to the true value of the same, we command you, that by the oath of good and lawful men of your county you diligently inquire whether the canonship and prebend aforesaid be full or not, how much that canonship and prebend is worth by the year, according to the true value of the same; and the inquisition which you shall thereof make certify from the day of wherefoever, &c. And therefore we command you, that notwithstanding the reclaim of you and the said *T. A.* on our presentation, you admit a proper person to the prebend aforesaid. Witness, &c.

A writ to the bishop after judgment affirmed to admit a clerk to inquire if the prebend be void or not, and the yearly value of it.

Attach=

Attachment.

Attachment
of privilege
for a clerk of
the court of
K. B.
Pract. Reg.
120, 129.

WILLIAM, &c. To the sheriffs of the city of *Bristol*, greeting: We command you, that you attach *William P.* if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us at *Westminster* on _____ day next after _____ to answer to *Richard R. Gent.* being one of the clerks of *Rowland Holt* and *Edward Ventris*, our chief clerk of the pleas in our court before us, according to the liberty and privilege for such chief clerk and his clerks for time immemorial used and approved in the same in a plea of trespass; And have there then this writ. Witness *J. Holt*, Knt. at *Westminster* 12th day of *February* in the 11th year of our reign.

The like for
an attorney
of the K. B.

ANNE, &c. To the sheriff of *North'ton*, greeting: We command you, that you attach *William* and *Richard* if they shall be found in your bailiwick, and them safely keep, so that you may have their bodies before us at *Westminster* on _____ day next after _____ to answer to *Robert R. Gent.* being one of the attorneys of our court before us, according to the liberty and privilege for such attorneys and other ministers of the same court for time out of mind used and approved in the same in a plea of trespass; And have there then this writ. Witness *J. Holt*, Knt. &c.

And ita

Audita querela.

A NNE, &c. To our justices of the Bench, greeting: We have by the grievous complaint of *Joseph Dickenson* of *London*, ironmonger, otherwise lately called, &c. understood, that whereas he the said *Joseph Dickenson*, at *London* aforesaid in the parish of *St. Mary le Bow* in the ward of *Cheape*, on the 5th day of *April* in the 2d year of our reign, was indebted to one *William Stephens* the younger, merchant, in 297 l. 16 s. of lawful money of *England*, for sundry goods and merchandizes of him the said *William* to the same *Joseph*, and at his request by the same *William* before that time sold and delivered; and being so therein indebted, the same *Joseph* for the better security of the said debt, the same day, year and place, by his certain writing obligatory sealed with the seal of him the said *Joseph*, and by the same *Joseph* then and there delivered, bearing date the said fifth day of *April* in the year aforesaid, acknowledged himself to be held and firmly bound to the said *William Stephens* the younger, merchant, in 600 l. of good and lawful money of *England*, to be paid to the said *William* when he should be thereto required, on condition nevertheless for the true payment of the sum of 297 l. 16 s. of like lawful money in manner and form following, to wit, The condition of this obligation is such, that if the above bound *Joseph Dickenson*, his heirs, executors or administrators, do well and truly pay, or cause to be paid, unto the above mentioned *William Stephens*, his executors, administrators or assigns, the full sum of 297 l. 16 s. of good and lawful money of *England* on the 25th day of *March*, which shall be in the year of our Lord then this obligation to be void, or else to remain in full force: And whereas also the said *Joseph* at the time of the sale and delivery of the goods and merchandizes aforesaid, and also on the said 5th day of *April*, and likewise on the 13th day of *December* in the year of the Lord was, and for the space of several years then last past had been, an ironmonger, and for all that time had used and exercised the art or trade of merchandize, and sought and got his livelihood and trade of living by buying, selling and merchandizing, to wit, at *London* aforesaid in the parish and ward aforesaid; and the said *Joseph* at and within that time, at *London* aforesaid in the parish and ward aforesaid, became and was justly and truly indebted to *J. Hellier*, *R. Edwards*, *J. House*, the said *William Stephens*, and to several other persons his creditors, being subjects born of this our kingdom of *England*, in the sum of 1000 l. of lawful money of *England*; and the said *Joseph Dickenson* being so indebted, and the art or trade aforesaid so as aforesaid using and exercising, the same *Joseph* afterwards, to wit, the same 13th day of *December* in the year of the Lord 1706 aforesaid, at *London* aforesaid in the parish and ward aforesaid, the same *John Hellier*, *R. Edwards*, *J. House* and the said *William Stephens*, not being paid or satisfied their true and just debts aforesaid) did depart and absent himself from his dwelling-house there being, with an intent that the said *William Stephens*, *J. Hellier*, *R. Edwards* and *J. House*, and the said other creditors of him the said *Joseph Dickenson*, should be delayed and hinder'd from and for the recovery of their true and just debts aforesaid from the same *Joseph* so as aforesaid due; and so on the same 13th day of *December* in the year of the Lord aforesaid, at *London* aforesaid in the parish and ward aforesaid, the same *Joseph Dickenson* manifestly became a bankrupt within the sense and true intent of the several statutes against bankrupts thereof lately made and provided, (the same *Joseph* then being a subject born of this our kingdom of *England*, and then and long before getting his trade of living by buying, selling and

Audita querela on the new statute concerning bankrupts.

Plaintiff an ironmonger, and indebted to defendant for goods sold. Pract. Reg.

149. 194- Gave bond to the defendant for payment thereof.

Got his living by buying and selling.

Indebted to several persons.

Absconded and became a bankrupt.

Petition to the Lord keeper. merchandizing, to wit, at the parish and ward aforesaid: And whereas also afterwards, to wit, on the 14th day of *December* above said, at *Westminster* in the county of *Middlesex*, on the petition of the said *John Hellier*, as well on his own behalf as on the behalf of the other creditors of the said *Joseph Dickinson*, to the right honourable *Nathan Wright*, Knt. then our Lord keeper of our great seal of *England*, then and there in writing made and exhibited to have their remedies in that behalf against the same *Joseph Dickinson*, then being a bankrupt, our certain commission on the statutes against bankrupts made and provided, under our great seal of *England* sealed by the same *Joseph* here in court produced, bearing date the said 14th day of *December* in the year of our reign, directed to *M. Kellett* and *J. Jackson*, Esq; *J. Onely*, *T. Clendon* and *J. Jackson*, Gent. issued out of our court of Chancery (our same court then being at *Westminster* aforesaid in the county of *Middlesex* aforesaid) by which said commission we named, assigned, appointed, constituted and ordained the said *M. K. J. J. J. O. T. C.* and *J. J.* our special commissioners, and by our same commission we gave full power and authority to our said commissioners, four or three of them, (of whom we ordered the said *M. K.* or *J. J.* to be one) to proceed according to the several statutes aforesaid of bankrupts in such case made and provided, and in our said commission specially mentioned, not only of and concerning such bankrupt, his body, lands freehold and copyhold, his goods, debts and other things whatsoever, but also against all other persons, as by concealment, claim or otherwise, did or should offend touching the premises, or any part thereof, against the true intent and meaning of the statutes aforesaid, or any of them; and to do and execute all and every thing and things whatsoever, as well for and towards satisfaction and payment of the said creditors, as towards and for all other intents and purposes whatsoever, according to the order and provision of the same statutes; and by the same commission we ordered and commanded the said commissioners, four or three of them (whereof we ordered the said *M. K.* and *J. J.* to be one) to proceed to the execution and finishing of our said commission with all diligence and effect, as our special trust was reposed in them, as by the said commission is more fully manifest and appears: By virtue of which our said commission, and by the force of the statutes aforesaid in the same particularly mentioned, afterwards, to wit, on the 15th day of *December* in the year of the Lord above said, at *London* aforesaid in the parish and ward aforesaid, the said *M. K. T. Clendon* and *J. Jackson*, three of the said commissioners in our commission aforesaid mentioned, for the better remedy of all the creditors of the said *Joseph Dickinson*, and after mature deliberation thereon taken, declared, that according to their opinions he the said *Joseph Dickinson* had become a bankrupt before the issuing of the said commission; and the said *M. K. T. Clendon* and *J. J.* then and there farther proceeded to execute the commission aforesaid, according to the power and authority to them thereby given, and according to the form and effect of the statutes aforesaid in the same mentioned: And whereas also by a certain act made in our parliament held at *Westminster* in the county of *Middlesex* on the 25th day of *October* in the 4th year of our reign, reciting, That whereas many persons had and did daily become bankrupts, not so much by reason of losses and unavoidable misfortunes, as to defraud and hinder their creditors of their just debts and duties to them due and owing, for the prevention whereof (among other things) it was and is enacted by the authority of the same parliament, that if any person or persons who from and after the 24th day of *June* in the year of the Lord 1706 should become a bankrupt within the several statutes made against bankrupts, or any of them, and against whom a commission of bankrupts under the great seal of *England* should be awarded and issued out, should not, within thirty days next after notice thereof in writing should be left at the place of the usual abode of such person or persons, and notice given in the *Gazette*, that such commission or commissions is or are issued forth, and of the time and place of a meeting of the commissioners, surrender him, her or themselves to the commissioners named in the said commission, or some of them, and submit to be examined from time to time upon oath by and before the said commissioners, or the major part of them, by the said commission authorised, and in all things conform to the several statutes before then made concerning bankrupts, and also upon such examination fully and truly disclose and discover how and in what manner, and to whom, and upon what consideration he, she or they had disposed, assigned or transferred any of his, her or their goods, wares,

The commis-
sion.

Declared a
bankrupt.

4 A. c. 17.

wares, merchandizes, money, or other effects or estate, and all books, papers and writings relating thereunto, of which he, she or they were possessed, or in or to which he, she or they were any way interested or intitled, or which any person or persons had had, or had in trust for him, her or them, or for his, her or their use, at any time before or after the issuing out of the said commission, and also deliver up unto the said commissioners, or the major part of the commissioners by the said commission authorized, all such part of his, her or their the said bankrupt's goods, wares, merchandizes, effects and estate, and all books, papers and writings relating thereunto, as at the time of such examination should be in his, her or their possession, custody or power, (his, her or their, and his, her or their wives and childrens necessary wearing apparel only excepted) then he, she or they, the said bankrupt in case of any default or wilful omission therein, or in any the premisses, and being thereof lawfully convicted by indictment or information, should suffer as a felon without the benefit of clergy: And it was farther by the statute aforesaid enacted by the authority of the same parliament, That all and every person and persons so becoming bankrupt as afore- Sect. 7. said, who should within the time limited by that act surrender him, her or themselves, to the major part of the commissioners therein named, and in all things conform, as in and by that act is directed, should be allowed the sum of 5*l.* *per cent.* out of the neat product of all the estate that should be recovered in and received on such discovery, which should be paid unto him by the assignee or assignees of the said commissioners, so as the said 5*l.* *per cent.* should not amount in the whole to above the sum of 200*l.* and should be discharged from all debts by him, her or them due and owing at the time that he, she or they did become bankrupt; and in case any such bankrupt should afterwards be arrested, prosecuted or impleaded for any debt due before such time as he, she or they became bankrupt, such bankrupt should be discharged upon common bail, and should and might plead in general, that the cause of such action or suit did accrue before such time as he became bankrupt, and might give that act and the special matter in evidence; and if a verdict pass for the defendant, or the plaintiff should become nonsuited, or judgment be given against the plaintiff, the defendant should recover his costs as in other cases: And for the better encouragement Sect. 17. of such persons as were then become bankrupts to make a true and just discovery of their estates, and to deliver the same up for the use and benefit of their creditors, it was farther by the same statute enacted by the authority of the same parliament, That all and every person and persons who were become bankrupts, and against whom a commission of bankrupt had issued before the 10th day of *March* 1705, who should voluntarily on or before the 24th day of *June* 1706 surrender him, her or themselves to the commissioners in such commission named, or the major part of them, and submit to be examined from time to time upon oath by and before the said commissioners, or the major part of them, and in all things conform to the several statutes then made concerning bankrupts, and to that act, should to all intents and purposes have the benefit of that act; provided always, and by the same act it was farther enacted by Sect. 19. the authority of the same parliament, that no discovery upon oath to be made by any bankrupt of his or her estate or effects, pursuant to that act, should intitle such bankrupt to the benefits allowed by the same act, unless the commissioners of bankrupts, or the greater part of them that should be named in the commission issued, or to be issued against him or her, should in writing under their hands and seals certify to the Lord chancellor of *England*, Lord keeper, or commissioners for the custody of the great seal of *England* for the time being, that such bankrupt had made discovery of his estate and effects, and in all things conformed himself according to the directions of the same act, and that there did not appear to them any reason to doubt

Judgment recovered against the plaintiff on the bond.

Plaintiff surrendered himself, and submitted to be examined.

Delivered up his effects to the commissioners.

doubt of the truth of such discovery, or that the same was not a full discovery of all such bankrupt's estate and effects; and unless such certificate should be allowed and confirmed by the Lord chancellor, Lord keeper or commissioners for the custody of the great seal of *England* for the time being, or by such two of the judges of the courts of *Queen's Bench*, *Common Pleas* and court of *Exchequer* at *Westminster*, to whom the consideration of such certificate should be referred by the Lord chancellor, Lord keeper or commissioners for the custody of the great seal of *England* for the time being; and the creditors of such bankrupts were allowed to be heard, if they should think fit, before the respective persons aforesaid, against the making such certificate, and against the confirmation thereof, as by the same act, among other things, more fully appears: And whereas also afterwards, to wit, in *Easter* term in the fifth year of our reign in our court of the Bench at *Westminster* in the county of *Middlesex*, before *T. Trevor*, Knt. and his companions, our justices of the Bench aforesaid, the said *William Stephens* by our original writ of debt directed to our sheriffs of *London*, and returnable and returned in our said court before you impleaded, the same *Joseph Dickenson* of and for the said 600*l.* in the bond aforesaid above contained, and it hath been in such manner proceeded in our same court upon the writ aforesaid, that on the appearance of the same *Joseph Dickenson* to the same writ in our said court before you in the same *Easter* term duly made, the said *W. Stephens* by *Richard Cooke* his then attorney in declaring on the writ aforesaid against the same *Joseph Dickenson* said, that whereas (*here recite the declaration*) whereby the said *William* hath been prejudiced, and had damage to the value of 20*l.* as he said: And therefore he produced the suit, &c. And the said *William* then produced in our said court the writing aforesaid, which the debt aforesaid in form aforesaid testified, the date whereof was the same day and year above said, &c. And the same *Joseph* by *J. Jackson* his attorney then came and defended the force and injury when, &c. and prayed *oyer* of the writing obligatory aforesaid; and to him it was read, &c. He likewise prayed *oyer* of the condition of the same writing; and to him it was read in these words, to wit, (*here recite the condition*): Which being read and heard, the same *Joseph* then prayed leave to imparl thereto in our same court of the Bench until on the morrow of the *Holy Trinity*; and he had, &c. The same day was given to the said *Joseph*, &c. On which day, &c. (*here recite the judgment thereon mutatis mutandis*) whereof the same *Joseph* is convicted, as by the record and proceedings thereof in our same court of the Bench now before you remaining is manifest and appears: And it is farther shewn to us on the behalf of the said *Joseph Dickenson* grievously complaining, that altho' the same *Joseph Dickenson* in conformity to the said statute, and in pursuance of the same, after the making of the statute aforesaid, and before the 24th day of *June* in the same statute mentioned, to wit, on the 30th day of *May* in the year of the Lord 1706, at *London* aforesaid, to wit, in the parish of *St. Mary le Bow* in the ward of *Cheape*, voluntarily surrendered himself to the said *M. K. T. C.* and *J. J.* being the major part of the commissioners by the said commission above recited authorised (the said commission then and yet being and remaining in its full force and virtue not revoked, annulled or determined in any manner) and then and there submitted himself to be examined from time to time on his oath by and before the said commissioners by the said commission authorised, or the major part of them; and then and also on the 21st day of *June* in the year of the Lord 1706 above said, was severally examined on his oath by and before the said *M. K. T. C.* and *J. J.* and upon such his examinations did fully and truly reveal and discover to the same commissioners how and in what manner, and to what persons and upon what considerations he the same *Joseph* had disposed, assigned and transferred any, every and what part of his goods, wares and merchandizes, money, effects and estate, and all books, papers and writings relating thereto of which he was possessed, and in and to which he was any way interested and intitled, and which any person had in trust for him and to his use at any time before or after the issuing out of the said commission, and also delivered up to the said commissioners all his goods, wares and merchandizes, effects and estates, and all books, papers and writings relating thereunto, as at the times of his examinations, or any of them, were in his possession, custody or power, (his and his wife's and childrens necessary wearing apparel only excepted) and in all things conformed to the several statutes made before the time of the making of the act above recited concerning bankrupts, and to the same act above recited, to wit, at *London* aforesaid in the parish and ward aforesaid; of which surrender and submission of the said *Joseph* to the commissioners aforesaid, and also of the time of his examination before the same commissioners, the said *W. Stephens* and the other creditors of him the said *Joseph* on the same 30th day of *May* in the year above said, before the examination aforesaid, and before the certificate hereafter mentioned had notice, to wit, at the parish and ward aforesaid: And altho' likewise thereupon afterwards,

afterwards, to wit, on the said 21st day of *June* in the year abovesaid, at *London* abovesaid in the parish and ward abovesaid, the said *M. R. T. C.* and *J. J.* then being the major part of the commissioners by the said commission authorised, by their certificate in writing under their hands and seals, which the same *Joseph* in the court of Chancery produced, bearing date the same day and year, certified to the right honourable *William Cowper*, being then and there our keeper of our great seal of *England*, that the same *Joseph* on his examinations abovesaid had made discovery of all his estate and effects, and in all things conformed himself according to the directions of the statutes abovesaid above recited, and that there did not appear to them the said commissioners any reason to doubt of the truth of such discovery, or that the same was not a full discovery of all the estate and effects of him the said *Joseph Dickenson*: And altho' likewise afterwards, to wit, on the 25th day of *June* in the year of the Lord abovesaid, at *London* abovesaid in the parish and ward abovesaid, the said certificate of the said commissioners was allowed and confirmed by the said right honourable *William Cowper*, being then our keeper of our great seal of *England*, under his hand; of which said certificate of the said commissioners, and before the allowance and confirmation of the same above mentioned, to wit, on the said 21st day of *June* in the year of the Lord abovesaid last mentioned, at *London* abovesaid in the parish and ward abovesaid, the said *William Steavens* and the other creditors of him the said *Joseph Dickenson* had notice; and altho' also by virtue of the premisses, and by force of the statute abovesaid, the same *J. Dickenson* from the said debt of 600*l.* in the said writing obligatory and the said judgment above recited mentioned, and from every part thereof, was and is discharged, and for that reason also from every execution for the debt and damages abovesaid, on pretence of the judgment abovesaid against him the said *Joseph* at the suit of the said *William Steavens* to be had or prosecuted of right is and ought to be discharged, as the said *Joseph Dickenson* is by proper ways and means ready to make manifest: Nevertheless the said *William Steavens* not regarding the premisses abovesaid, but contriving unjustly to oppress him the said *Joseph Dickenson*, by reason of the judgment abovesaid against him the said *Joseph Dickenson* in form abovesaid given, hath lately unjustly sued out execution against the same *Joseph* of and upon the judgment abovesaid for the said 600*l.* debt, and his damages abovesaid, issuing out of our said court of the Bench abovesaid, and endeavours and daily contrives unjustly to take and arrest him the said *Joseph* by colour and pretence thereof by his body in execution for the debt and damages abovesaid, to the great damage and grievance of him the said *Joseph*, wherefore the same *Joseph Dickenson* hath most humbly implored us to grant him a proper remedy in this behalf; and because we will not suffer him the said *Joseph* to be in any wise injured in this behalf; and being willing that what is just should be done, we command you, that the complaint of the said *Joseph Dickenson* in this behalf being heard, and the parties abovesaid being called before you, and their reasons on both sides being heard, you cause full and speedy justice to be done to the said *Joseph Dickenson*, as of right and according to the law and custom of our kingdom of *England* you shall see proper and just to be done. Witness Ourself at *Westminster* day of in the sixth year of our reign.

The certifi-
cate.The allow-
ance thereof
by the Lord
keeper.Whereby 'the
plaintiff ought
to be dis-
charged.Yet the defen-
dant took him
in execution.

Bill of Middlesex.


Midd', to wit. **T**HE sheriff is commanded, that he take *Richard G. Bart.* if, &c. and him safely, &c. so that he may have his body before the Lord the King at *Westminster* on *Monday* next after the morrow of the Ascension of the Lord, to answer to *Erasmus Dryden* in a plea of trespass, and also to the bill of the said *Erasmus* against the said *Richard* for 70*l.* upon promise, according to the custom of the court of the said Lord the King before the King himself to be exhibited; And have there then this precept.

By bill.

Holt. Coleman.

Midd', to wit. **T**HE coroners of the county of *Middlesex* are commanded, that they take *Philip D. Gent. Roger P. and John L. Gent.* if, &c. and them safely, &c. so that they may have their bodies before the Lord the King at *Westminster* on day next after to answer to *Robert Beachcroft, Knt. and Henry Furnese, Knt.* sheriff of the county aforesaid, in a plea of trespass; And have there then this precept.

By bill.

Ventris.

 Capias

Capias.

JAMES, &c. To the sheriff of *Sussex*, greeting: We command you, that you take *A special ca-*
Storer Bytewood late of in your county, yeoman, if he shall be found in *pias in assault*
 your bailiwick, and him safely keep, so that you may have his body before us founded on an
 wheresoever we shall then be in *England*, to answer to *William Brett* in a plea, why with original.
 force and arms he made an assault on him the said *William* at *Lewis*, and him beat,
 wounded and abused, so that his life was despaired of, and other outrages on him com-
 mitted, to the great damage of him the said *William*, and against our peace; And have
 there this writ. Witness, &c.

JAMES, &c. To the sheriff of *Sussex*, greeting: We command you, that you take *John* The like in
Shore late of *Lewes* in your county, clerk, if he shall be found in your bailiwick, and trespass with
 him safely keep, so that you may have his body before us wheresoever we shall cattle, and
 then be in *England*, to answer to *Charles Smith*, Gent. in a plea, why with force and arms tearing up his
 the closes of him the said *Charles* at *Hamsley* he broke and entred, and the grafs to the value foil with carts.
 of 20 s. there lately growing by his feet with walking trod down and destroyed, and also
 other grafs to the value of 10 l. there likewise lately growing with certain cattle eat up,
 trod down and destroyed, and also his foil there with certain carts and carriages tore up,
 and other outrages on him committed, to the great damage of him the said *Charles*, and
 against our peace; And have there this writ. Witness, &c.

Capias

Capias ad satisfaciendum.

Ca. fa. on a judgment on the fieri facias quare execution non est error in K. B.
 3 H. 7. 10.
 13 C. 2. c. 2.
 § 10.

GEORGE, &c. To the sheriffs of *London*, greeting: We command you, that you take *Elizabeth S.* late of *London*, widow, if she shall be found in your bailiwick, and her safely keep, so that you may have her body before us wheresoever we shall then be in *England*, to satisfy *S. E. 6 l. 10 s.* which to the same *Sarah* in our court before us, according to the form of the statute lately made and provided, were adjudged for her damages, costs and charges, which she had by reason of the delay of execution of a certain judgment for 26 l. by her the said *Sarah* against the said *Elizabeth* lately in our court before *Peter King*, Knt. and his companions, our justices of the Bench at *Westminster* obtained, by pretence of a certain writ of error by her the said *Elizabeth* of and upon the premisses prosecuted, as by the record and proceedings of the judgment aforesaid, which we have lately for certain causes of error caused to be brought into our same court before us, appears to us on record; and whereon the same *Elizabeth* afterwards in our court before us that writ of error hath not prosecuted, as likewise appears to us on record; And have there then this writ. Witness, &c.

Ca. fa. on a judgment affirmed on a writ of error in the time of the late King.
 3 H. 7. c. 10.
 13 C. 2. c. 2.
 § 10.

ANNE, &c. To the sheriff of *Lincoln*, greeting: We command you, that you take *Tho. A.* late of *Fulstowe* in your county, Gent. otherwise called, &c. if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us wheresoever, &c. to satisfy *Francis B. 10 l.* debt which the same *Francis* lately in the court of the Lord *William* the Third, late King of *England*, before *George Truby*, Knt. and his companions, justices of the same late King of the Bench at *Westminster* hath recovered against him, and also 15 l. for his damages which he hath sustained, as well by reason of the detention of that debt, as for his costs and charges by him about his suit in that behalf expended, whereof the said *Thomas* is convicted, as by the inspection of the record and proceedings thereof, which into the court of the said late King before the late King himself, the same late King for certain causes of error lately caused to be brought, and which in the court of the Lord the late King before the King himself being in all things affirmed now remaining appears to us on record, and likewise 10 l. 10 s. which to the same *Francis* in the same court of the said late King before the King himself, according to the form of the statute in such case made and provided, were adjudged for his damages, costs and charges, which the said *Francis* had sustained by reason of the delay of execution of the judgment aforesaid, by pretence of the prosecution of the said writ of error of the said late King by the said *Thomas* of and upon the premisses as aforesaid prosecuted, whereof the same *Thomas* is likewise convicted, as it also appears to us on record; And have there this writ. Witness *J. Holt*, Knt. &c.

ANNE, &c. To the sheriff of *Middlesex*, greeting: We command you, that you take *J. T.* of *Norton-hall* in the county of *Somerset*, Gent. otherwise called, &c. if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us at *Westminster* on day next after to satisfy *E. Ireland*, widow, executrix of the last will and testament of *E. J.* her late husband deceased, 40*l.* debt which the same *Elizabeth* lately in the court of the Lord and Lady *William* and *Mary*, late King and Queen, before the late King and Queen themselves at *Westminster* hath recovered against him, and also 23*s.* which to the same *Elizabeth* in the same court of the said late King and Queen before the late King and Queen themselves at *Westminster* aforesaid were adjudged for her damages which she had sustained, as well by reason of the detention of that debt, as for her costs and charges by her the said *E.* about her suit in that behalf expended, whereof the said *J.* is convicted, as it appears to us on record; and whereon in the same court of the said late King before the King himself it is considered, that the said *E.* may have her execution against the said *J.* for the debt and damages aforesaid; And have there then this writ. Witness, &c.

Ca. sa. in debt after a scire facias for an executrix on a judgment recovered in the time of the late King.

ANNE, &c. To the sheriffs of *London*, greeting: We command you, that you take *G. J.* if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us at *Westminster* on day next after to satisfy *T. W.* 5*l.* to the same *T.* by our court before us adjudged, according to the form of the statute in such case lately made and provided, because the said *G.* hath not filed nor entred; or caused to be entred or filed, any common bail, or any appearance, in a certain plea of trespass, at the suit of the said *T.* within eight days next after the return of our certain writ by the said *T.* out of our court before us against the said *G.* prosecuted, whereof the said *G.* is convicted; and whereon in our same court before us it is considered, that the said *T.* may have execution thereof against the said *G.* And have there then this writ. Witness, &c.

*Ca. sa. for 5*l.* for not filing bail within eight days, according to 10 W. 3. c. 25. § 33.*

ANNE, &c. to satisfy *John Naseby* 6*l.* according to the form of the statute in such case lately made and provided, adjudged for his damages, costs and charges, which he hath sustained by reason of the delay of execution on a certain adjudication of execution on a recognisance against the said *John Farrington* to the same *John Naseby* before our justices of the Bench lately acknowledged, by the pretence of the prosecution of a vitious and defective writ of error in that behalf by the said *John Farrington* lately brought, and which into our court before us we lately caused to be brought, appears on record; and whereon in our same court before us it is considered, that the said *John Naseby* may have his execution against the said *John Farrington* for the said 6*l.* according to the statute aforesaid; our writ of *supersedeas* to you lately directed to the contrary notwithstanding; And have there this writ. Witness, &c.

Ca. sa. for costs on quashing a writ of error by 4 Ann. c. 16. § 25.

GEORGE, &c. To the sheriff of *Somerset*, greeting: We command you, that you take *Thomas Smith*, if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us wheresoever we shall then be in *England*, to satisfy *Edward P.* Esq; as well 500*l.* debt which the same *Edward* lately in our court before us at *Westminster* hath recovered against him, and also 20*l.* 2*d.* for his damages which he sustained, as well by reason of the detention of that debt, as for his costs and charges by him about his suit in that behalf expended, whereof the same *Thomas* is convicted, as it appears to us on record, as also 90*l.* which to the same *Edward P.* in our Exchequer chamber before our justices of the Bench and the barons of our Exchequer of the degree of the coif there, according to the form of the statute lately made and provided, were adjudged for his damages, costs and charges, which he had by reason of the delay of execution of the judgment aforesaid, by pretence of prosecuting our writ of error by him the said *Thomas* of and upon the judgment aforesaid prosecuted, whereon that judgment was in the same court afterwards affirmed, and whereof the same *Thomas* is convicted, as by the inspection of the record and proceedings thereof from the said court of Exchequer chamber aforesaid into our said court before us, according to the form of the statute aforesaid remitted,

Ca. sa. on the affirmation of a judgment in parliament after an affirmation in the Exchequer chamber.

4. & 5 A.

and in our same court before us now remaining in all things affirmed, appears likewise to us on record, and also 5*l.* which to the same *Edward P.* in our court of parliament, according to the form of the statute thereof lately made and provided, were adjudged for his damages, costs and charges, which he had by reason of the delay of execution of the judgment aforesaid, by pretence of prosecuting a writ of error by him the said *Thomas* of and upon the judgment aforesaid in our court of parliament, and which by our said court of parliament is in all things affirmed, whereof the same *Thomas* is convicted, as by the inspection of the record and proceedings thereof from our said court of parliament into our court before us remitted appears likewise to us on record; And have there this writ. Witnesses, &c.

Ca. sa. for
defendant on
a nonsuit for
not joining
issue in an
action qui
tam.

23 H. 8. c. 15.
8 El. c. 2.
4. Jac. c. 3.

GEORGE, &c. To the sheriff of *Surry*, greeting: We command you, that you take *Henry S.* if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us at *Westminster* on day next after to satisfy *Edward P.* 70*s.* which to the same *Edward* in our court before us at *Westminster*, according to the form of the statute thereof lately made and provided, were adjudged for his costs and charges in and about his defence in a certain action of trespass on the case in the same court before us brought, in which said action the said *Henry S.* against the said *Edward P.* as well for us as himself prosecuted, and in the same action the same *Henry* afterwards was nonsuited, whereof he is convicted, as it appears to us on record; And have there then this writ. Witness *John Pratt*, Knt. at *Westminster* 28th day of *November* in the 5th year of our reign.

Ca. sa. in
debt for the
surviving exe-
cutors after a
verdict in a
scire facias.

8 & 9 W. 3.
c. 10.

GEORGE, &c. To the sheriff of *Middlesex*, greeting: We command you, that you take *George B. Esq;* if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us at *Westminster* on day next after to satisfy *Grace B.* widow, and *John R. Esq;* surviving executors of the last will and testament of *James B. Esq;* deceased, 100*l.* debt which the same *Grace* and *John Riches, Esq;* and *John Apsley* and *William Fashion*, as executors of the said *James Butler* now lately deceased, lately in the court of the Lady *Anne*, late Queen of *Great Britain*, &c. before the late Queen herself at *Westminster* against the said *George* have recovered, and also 6*l.* 5*s.* which to the same *Grace, John Riches, John Apsley* and *William* in the same court of the said late Queen were adjudged for their damages which they had sustained, as well by reason of the detention of that debt, as for their costs and charges by them about their suit in that behalf expended, whereof the said *George* is convicted, as it appears to us on record; and whereon in our court before us at *Westminster* it is considered, that the said *Grace* and *John Riches* may have their execution against the said *George* for the debt and damages aforesaid, as also for 6*l.* for their costs and charges by our court before us at *Westminster*, according to the form of the statute in such case thereof made and provided, to the same *Grace* and *John Riches* adjudged, whereof the same *George* is convicted, as it likewise appears to us on record; And have there then this writ. Witness *Thomas Lord Parker*, Baron of *Macclesfield*, at *Westminster* 10th day of *July* in the third year of our reign.

Ca. sa. in re-
plevin after a
writ of in-
quiry of the
value of the
goods di-
strain'd and
the arrear of
rent.

7 H. 8. c. 4.
21 H. 8. c. 19.
17 C. 2. c. 7.

ANNE, &c. Whereupon on the petition of the said *William* we commanded you, that according to the form of the statute in such case lately made and provided, by the oath of 12 good and lawful men of your county you should diligently inquire how much of the yearly rent aforesaid at the said time of the caption and distress of the goods and chattels aforesaid was in arrear and unpaid, and how much the goods and chattels aforesaid so as aforesaid taken and distrained were worth, according to the true value of the same; and the inquisition which, &c. to us from the day of *St. Michael* in three weeks last past, wheresoever, &c. under your seal and the seals of those by whose oath you should take that inquisition, you should send, together with the writ to you in that behalf directed; and you on that day returned here a certain inquisition taken before you at *East Grinstead* in your county on the fifth day of *August* last past, by the oath of 12 good and lawful men, by which it is found, that at the said time of the caption and distress of the goods and chattels aforesaid, 50*s.* of the yearly rent aforesaid, in the cognisance aforesaid mentioned to be due to the same *William*, were due, in arrear and unpaid; and that the

goods and chattels, so as aforesaid taken and distrained, according to the true value of the same, were worth 50*s*. Therefore it was considered, that the said *William* should recover against the said *Matthew* the said 50*s*. of the annual rent aforesaid, being by the inquisition aforesaid in form aforesaid found, and his damages by reason of the premisses to 9*l*. to the same *William* at his request for his costs and charges by him in that behalf sustained, according to the form of the statute thereof lately made and provided, by the court here of increase adjudged; which said arrears of the yearly rent, costs and charges aforesaid in the whole amount to 11*l*. 10*s*. Therefore we command you, that you take the said *Matthew*, if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us on the Octave of St. *Hillary*, wheresoever, &c. to satisfy to the said *William* the said 50*s*. being the arrears of the yearly rent aforesaid, and also the said 9*l*. to the same *William* for his costs and charges aforesaid by him in this behalf sustained, according to the form of the statute aforesaid, by our court before us adjudged in form aforesaid; And have there this writ, &c.

GEORGE, &c. To the sheriff of *Kent*, greeting: Whereas we lately commanded our Sheriff of *Middlesex*, that he should take *A. T. Gent.* otherwise called, &c. if he should be found in his bailiwick, and him should safely keep, so that he might have his body before us at *Westminster* on a certain day now past, to satisfy to *T. C. Bart.* late sheriff of your county aforesaid, 40*l*. debt which the same *Thomas* had lately in our court before us at *Westminster* recovered against him, and also 30*s*. which to the same *T. C. Bart.* in our same court before us at *Westminster* aforesaid were adjudged for his damages which he had sustained, as well by reason of the detention of that debt, as for his costs and charges by him about his suit in that behalf expended, whereof the same *Andrew* is convicted, as it appears to us on record: And our said sheriff of *Middlesex* on that day returned to us, that the said *Andrew* was not found in his bailiwick, whereupon on the part of the said *Thomas* in our court before us it is sufficiently testified, that the said *Andrew* runs up and down and secretes himself in your county: Therefore we command you, that you do not omit on account of any liberty of *Romney Marsh* in your county, but enter into it and take the said *Andrew*, if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us at *Westminster* on day next after to satisfy to the said *Thomas* the debt and damages aforesaid; And have there then this writ. Witness *J. Pratt*, Knt. &c.

WILLIAM, &c. To the sheriff of *Dorset*, greeting: We command you, that you take *George P.* the younger of *Tollar Welme* in the county of *Dorset*, Esq; if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us at *Westminster* on day next after to satisfy *Margaret M.* widow, 200*l*. debt which the same *Margaret* hath lately in our court before us at *Westminster* recovered against him, and also 53*s*. which to the same *Margaret* in our same court before us at *Westminster* were adjudged for her damages which she sustained, as well by reason of the detention of that debt, as for her costs and charges by her about her suit in that behalf expended, whereof the same *George* is convicted, as it appears to us on record; And have there this writ. Witness *J. Holt*, &c.

ANNE, &c. To the sheriff of *Berks*, greeting: We command you, that you take *Peter Munck*, if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us at *Westminster* on day next after to satisfy to *John M.* the elder 13*l*. 10*s*. which the same *John* hath lately in our court before us at *Westminster* recovered against him for his damages which he sustained, as well by reason of certain trespasses by him the said *Peter* to the same *John* lately done, as for his costs and charges by him about his suit in that behalf expended, whereof the same *Peter* is convicted, as it appears to us on record; And have there then this writ. Witness *J. Holt*, Knt. at *Westminster* 24th day of *April* in the second year of our reign.

William

*Non omittas
ca. fa. in debt.*

William, &c. To the sheriff of *Northampton*, greeting: We command you, that you do not omit on account of any liberty in your county, but you enter into it and take *Joseph W.* if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us at *Westminster* on _____ day next after _____ to satisfy to *Samuel G. Esq;* 44*l.* debt which the same *Samuel* hath lately in our court before us at *Westminster* recovered against him, and also 53*s.* which to the same *Samuel* in our same court before us at *Westminster* were adjudged for his damages which he sustained, as well by reason of the detention of that debt, as for his costs and charges by him the said *Samuel* about his suit in this behalf expended, whereof the same *Joseph* is convicted, as it appears to us on record; And have there then this writ. Witness *J. Holt, Knt.* at *Westminster* 9th day of *July* in the 13th year of our reign.

*Ca. fa. on a
nonpros for
want of a de-
claration.*

23 H. 8. c. 15.
8 El. c. 2.
4 Jac. c. 3.

ANNE, &c. To the sheriff of *Essex*, greeting: We command you, that you take *Joseph G.* if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us at *Westminster* on *Wednesday* next after 15 days of *Easter*, to satisfy to *Thomas B.* and *John B.* 30*s.* which to the same *Thomas* and *John* in our court before us at *Westminster*, according to the form of the statute thereof lately made and provided, were adjudged for his costs and charges about his defence in a certain action of trespass by the said *Joseph G.* against them the said *Thomas* and *John* in our same court before us brought, in which said action the same *Joseph* afterwards did not prosecute, whereof he is convicted, as it appears to us on record; And have there then this writ. Witness *John Holt, Knt.* at *Westminster* 12th day of *February* in the first year of our reign.

*T. statum ca.
fa. for da-
mages in e-
jectment after
judgment af-
firmed in
K. B. on a
writ of error
out of C. B.*

3 H. 7. c. 10.
13 C. 2. c. 2.
§ 10.

William, &c. To the sheriff of *Middlesex*, greeting: Whereas we lately commanded our sheriff of *Suffex*, that he should take *Hannab L.* late of the parish of *Wapping, Whitechapple*, in his county, spinster, if she should be found in his bailiwick, and her safely keep, so that he might have her body before us from the day, &c. to satisfy to *Nathaniel S.* 10*l.* which to the same *Nathaniel* were lately in our court before *G. T. Knt.* and his companions, our justices of the Bench at *Westminster*, adjudged for his damages which he had sustained, as well by reason of a certain trespass and ejectment on the same *Nathaniel* by the said *Hannab* lately committed, as for his costs and charges by him about his suit in that behalf expended, whereof the said *H.* is convicted, as by the inspection of the record and proceedings thereof, which we caused to be brought into our court before us, by virtue of our writ to correct error, by the said *H.* of and upon the premises prosecuted, and which in our court before us in all things affirmed now remaining appears to us on record, and also 7*l.* which to the same *N.* in our same court before us at *Westminster* aforesaid, according to the form of the statute in such case made and provided, were adjudged for his damages, costs and charges, which he sustained by reason of the delay of execution of the judgment aforesaid, on pretence of prosecuting our said writ to correct error, whereof the same *H.* is convicted, as it appears likewise to us on record: And our said sheriff of *Suffex* hath thereon returned to us, that the said *Hannab* is not found in his bailiwick; upon which on the part of the said *N.* in our court before us at *Westminster* it is sufficiently testified, that the said *Hannab* runs up and down and secretes herself in your county: Therefore we command you, that you take her, if she shall be found in your bailiwick, and her safely keep, so that you may have her body before us on the morrow of the Ascension of the Lord, wheresoever, &c. to satisfy the said *N.* the damages aforesaid; And have there then this writ. Witness, &c.

William,

William, &c. To the sheriff of *Stafford*, greeting: We command you, that you take *Ca. sa. in* *Walter J.* clerk, if he shall be found in your bailiwick, and him safely keep, so ^{dower for da-} that you may have his body before us from the day of ^{wherefoever, &c. to satisfy} *Susanna J.* widow, as well 102 *l.* which to the same *Susanna* in our court before *George* ^{judgment af-} *Treby*, Knt. and his companions, our justices of the Common Bench at *Westminster*, were ^{firmly in} *K. B.* and for adjudged for the value of the third part of one messuage, 10 acres of meadow and 30 acres ^{costs for delay} of pasture with the appurtenances in *Earnfield*, otherwise *Yearnfield*, as the dower of her ^{of execution.} the said *Susanna* of the endowment of *John Fedrell* her late husband, whereof she hath nothing, as for her costs and charges by her about her suit in that behalf expended, whereof the same *Walter* is convicted, as by the inspection of the record and proceedings thereof, which we have caused to be brought into our court before us by virtue of our writ to correct error by the said *Walter* of and upon the premises prosecuted, and which in our same court before us in all things affirmed now remaining appears to us on record, as also 18 *l.* which to the same *Susanna* in our same court before us at *Westminster* aforesaid, according ^{H. 7. c. 16.} to the form of the statute in such case made and provided, were adjudged for her damages, ^{13 C. 2. c. 2.} costs and charges, which she had sustained by reason of the delay of execution of the judgment aforesaid, on pretence of the prosecution of our said writ of error, whereof the same *Walter* is also convicted, as it likewise appears to us on record; And have there this writ. Witness *J. Holt*, Knt. &c.

William, &c. To the sheriffs of *London*, greeting: We command you, that you take *Ca. sa. on a* *E. R.* late of *C.* in the county of *Salop*, yeoman, if he shall be found in your baili- ^{judgment in} wick, and him safely keep, so that you may have his body before us from the day of ^{C. B. where} wherefoever, &c. to satisfy *R. B.* Gent. one of the attornies in our court of the Bench at ^{the defendant} *Westminster*, 65 *l.* 16 *s.* 8 *d.* which the same *R.* lately in our court before *G. T.* Knt. and ^{brought error} his companions, our justices of the Bench at *Westminster* aforesaid, hath by our writ, and ^{and did not} by the judgment of the same court, recovered against him for his damages which he had ^{prosecute.} sustained, as well by reason of a certain trespass to the same *R.* by the said *E.* lately done, as for his costs and charges by him about his suit in that behalf expended, whereof the same *E.* is convicted, as by the inspection of the record and proceedings thereof, which we lately for certain reasons of error caused to be brought into our court before us, appears to us on record, and also 61 *s.* which in our said court before us at *Westminster* were to the same *R.* according to the form of the statute in such case made and provided, adjudged for ^{H. 7. c. 16.} his damages, costs and charges, because the same *E.* did not prosecute his writ of error ^{13 C. 2. c. 2.} aforesaid, whereof the same *E.* is likewise convicted, as it appears also to us on record; ^{10.} And have there this writ. Witness, &c.

GEORGE, &c. To the sheriff of *Middlesex*, greeting: Whereas we commanded you ^{Testatum ca.} by our writ, that of the lands and chattels of *William T.* of the parish of *St. Margaret* ^{sa. for the re-} *Westminster* in your county, Gent. in your bailiwick, you should cause to be made 100 *l.* ^{fidue in debt} and of the lands and chattels of *John B.* of ^{on a judgment} in your county, Gent. in your bailiwick, you should cause to be made 100 *l.* to be paid to *John F.* according to the form and effect ^{against bail on} of the adjudication of execution on a certain recognisance by them the said *W. T.* and *J. B.* ^{a recognisance} to the said *John Ford* in our court before *P. King*, Knt. and his companions, our justices of ^{in C. B. af-} the Bench at *Westminster* acknowledged, as by the record and proceedings of the adjudica- ^{firmly in} tion of the execution thereof, which we lately caused to be brought into our court before ^{K. B.} us, for certain reasons of error to be corrected in the same appears to us on record, and which in our same court before us, being in all things affirmed, now remaining appears likewise to us on record, as also 12 *l.* which to the same *John Ford* in our same court before us, according to the form of the statute in such case made and provided, were ad- ^{H. 7. c. 16.} judged for his costs and charges which he had sustained by reason of the delay of execution ^{13 C. 2. c. 2.} of the judgment aforesaid, on the pretence of the prosecution of our said writ of error by ^{10.} the said *W. T.* and *J. B.* of and upon the premises as aforesaid prosecuted, whereof the same *W. T.* and *J. B.* are convicted, as it appears also to us on record; and that you should have that money before us ^{wherefoever, &c. to be paid to the said John F.} for his debt, damages, costs and charges aforesaid; and you on that day returned to us, ^{Precept to the} that for execution to be made of the writ aforesaid to you directed, you had commanded ^{bailliff.} the bailiff of the dean and chapter of the collegiate church of *St. Peter Westminster*, who hath the full execution of all warrants, writs and precepts, to him directed; which said bailiff, to wit, *W. G. Esq.* had thus answered you, that of the goods and chattels of the said *John B.* he had caused to be made 4 *l.* 4 *s.* part of the debt and damages

Part levied. damages aforesaid, which said money before us at the day and place aforesaid he had ready to be paid to the said *John Ford*, in part of satisfaction of the debt and damages aforesaid; and he farther certified, that the said *John B.* had no other or more goods and chattels in his bailiwick whereof he could cause to be made the residue of the said debt and damages, or any parcel thereof, and that the said *William* is dead: Therefore we command you, that you take *John B.* if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us from the day of wherefoever, &c. to satisfy the said *John F.* 107 l. 16 s. the residue of the debt, damages, costs and charges aforesaid; And have there then this writ. Witness, &c.

Testatum ca. fa. in debt after a scire facias.

William and Mary, &c. To the sheriff of *New Castle upon Tyne*, greeting: Whereas we lately commanded our sheriffs of *London*, that they should take *John Pye*, otherwise called, &c. if he should be found in their bailiwick, and him safely keep, so that they might have his body before us at *Westminster* on a certain day now past, to satisfy *Venetia House* 500 l. debt which the same *Venetia* had lately in our court before us at *Westminster* recovered against him, and also 40 s. which to the same *Venetia* lately in our court before us at *Westminster* were adjudged for her damages which she had sustained, as well by reason of the detention of that debt, as for her costs and charges by her about her suit in that behalf expended, whereof he is convicted, as it appears to us on record, and whereof in our same court before us at *Westminster* it is considered, that the said *Venetia* may have her execution against the said *John* for the debt and damages aforesaid by the default of the said *John*; and our said sheriffs of *London* on that day returned to us, that the said *John* is not found in their bailiwick; whereupon on the part of the said *Venetia* in our court before us it is sufficiently testified, that the said *John* secretes himself, and runs up and down in your county: Therefore we command you, that you take him, if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us at *Westminster* on day next after to satisfy the said *Venetia* the debt and damages aforesaid; And have there then this writ. Witness, &c.

Ca. fa. in debt against the principal to warrant a scire facias against the bail.

William, &c. To the sheriffs of *London*, greeting: We command you, that you take *A. B.* otherwise called, &c. if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us at *Westminster* on day next after (8 days between the *teste* and the return) to satisfy *C. S.* 100 l. debt which the same *C.* hath lately in our court before us at *Westminster* recovered against him, and also 31 s. which to the same *C.* in our court before us at *Westminster* aforesaid were adjudged for his damages which he had sustained as well by reason of the detention of that debt, as for his costs and charges by him about his suit in that behalf expended, whereof the same *S.* is convicted, as it appears to us on record; And have there then this Writ. Witness, &c.

In case.

William and Mary, &c. To the sheriff of *Middlesex*, greeting: We command you, that you take *T. B.* if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us at *Westminster* on day next after to satisfy *Randal Harwood* 16 l. which the same *Randal* hath lately in our court before us at *Westminster* recovered against him for his damages which he had sustained, as well by reason of the non-performance of certain promises and assumptions by him the said *T.* to the same *R.* lately made, as for his costs and charges by him about his suit in that behalf expended, whereof the same *T.* is convicted, as it appears to us on record; And have there then this writ. Witness, &c.

William, &c. To the sheriff of *Middlesex*, greeting: We command you, that you In covenant
take *Thomas E.* if he shall be found in your bailiwick, and him safely keep, so that
you may have his body before us at *Westminster* on _____ day next after _____ to satisfy
Arthur Onslow, Esq; 36*l.* for his damages which he sustained, as well by reason of the
breach of a certain covenant by him the said *Thomas* to the same *Arthur* lately made, as for
his costs and charges by him about his suit in that behalf expended, whereof he is convict-
ed, as it appears to us on record; And have, &c.

William and Mary, &c. To the sheriff of *Middlesex*, greeting: We command you, In trespass by
that you take *T. R.* late of *London*, Knt. *J. E.* late of, &c. if they shall be found original a-
in your bailiwick, and them safely keep, so that you may their bodies before us from gainst the sur-
the day of _____ wherefoever, &c. to satisfy *C. C. Gent.* 165*l.* which the same *C.* viving defen-
lately in our court before us at *Westminster* recovered against them and one *T. F.* late of danta.
London, Knt. (which said *T. F.* afterwards died) for his damages which he sustained as well
by reason of a certain trespass to the same *C.* by the said *T. R.* &c. together with the said
T. F. now deceased lately done, as for his costs and charges by him about his suit in that
behalf expended, whereof they are convicted, as it appears to us on record; and whereon
in our same court before us at *Westminster* after the death of the said *T. F.* it is considered,
that the said *C. C.* may have his execution against the said *T. R.* *J. E.* &c. for the damages,
costs and charges aforesaid, by the default of them the said *T. J.* &c. And have there
this writ. Witness, &c.

ANNE, &c. To the sheriff of *Middlesex*, greeting: We command you, that you Against the
take *J. B.* of *London*, Gent. and *J. D.* of *London*, Gent. the bail of *Samuel A.* other- bail in debt on
wife called *S. A.* of *London*, merchant, if they shall be found in your bailiwick, and them a judgment
safely keep, so that you may have their bodies before us at *Westminster* on _____ day next recovered in
after _____ to satisfy *S. C.* 100*l.* debt which the same *S. C.* lately in the court of the Lord the time of
William the Third, late King of *England*, before the late King himself at *Westminster* re- the late King
covered against him the said *Samuel*, and also 31*s.* which to the same *Simon* in the said
court of the said late King were adjudged for his damages which he had sustained as well
by reason of the detention of that debt, as for his costs and charges by him about his suit
in that behalf expended, whereof the same *Samuel* is convicted, as it appears to us on re-
cord; and whereon in our court before us at *Westminster* it is considered, that the said *Simon* Scire facias;
may have his execution against the said *J. B.* and *J. D.* for the debt and damages aforesaid,
according to the force, form and effect of a certain recognisance by them the said *J. B.*
and *J. D.* in the said court of the said late King before the late King himself at *Westminster*
for the said *S. A.* at the suit of the said *S. C.* in the suit aforesaid acknowledged, by the
default of them the said *J. B.* and *J. D.* as it appears likewise to us on record; And have
there then this writ. Witness, &c.

William, &c. To the sheriff of *Northampton*, greeting: We command you, that For an execu-
you take *John A.* and *M.* his wife, administratrix of all and singular the goods trix against an
and chattels, rights and credits, which belonged to *S. M.* the younger deceased, otherwise administratrix
called *S. M.* the younger, of, &c. if they shall be found in your bailiwick, and them safely in debt.
keep, so that you may have their bodies before us at *Westminster* on _____ day next after
to satisfy *Letitia M.* widow, executrix of the last will and testament of *S. M.* the
elder, her late husband deceased, 400*l.* debt which the same *Letitia* lately in our court be-
fore us at *Westminster* recovered against them, and also 8*l.* which to the same *Letitia* in
our same court before us at *Westminster* were adjudged for her damages which she sustained
as well by reason of the detention of that debt, as for her costs and charges by her about
her suit in that behalf expended, whereof the same *John* and *Mary* are convicted, as it
appears to us on record; And have there then this writ. Witness, &c.

ANNE,

For an executrix against an attorney after a nonpro of a writ of error out of the Exchequer for not transcribing.

ANNE, &c. To the sheriff of *Middlesex*, greeting: We command you, that you take *John G. Gent.* being one of the attorneys of our court before us, if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us at *Westminster* on day next after to satisfy *Martha W.* widow, executrix of the last will and testament of *George W.* her late husband deceased, 112 l. which the same *Martha W.* hath lately in the court of the Lord *William* the Third, late King of *England*, &c. before the late King himself at *Westminster* recovered against him for her damages which she had sustained, as well by reason of the non-performance of certain promises and assumptions to the same *George* in his life-time by the said *John* made, as for her costs and charges by her about her suit in that behalf expended, whereof the same *John* is convicted, as it appears to us on record; And have there then this writ. Witness, &c.

Ca. fa. for an administratrix for the residue in case.

William, &c. To the sheriffs of *London*, greeting: Whereas we lately commanded you by our writ, that you should cause to be made of the goods and chattels of *Thomas B. Esq;* in your bailiwick, 300 l. 6 s. which *Ruth W.* widow, administratrix of all and singular the goods and chattels, rights and credits, which belonged to *Robert W.* her late husband deceased, had lately in our court before us at *Westminster* recovered against him, as well by reason of the non-performance of a certain promise and assumption by him the said *Thomas* to the same *Ruth*, as administratrix to the said *Robert* lately made, as for her costs and charges by her about her suit in that behalf expended, whereof the said *Thomas* is convicted, as it appears to us on record, and that you should have that money before us at *Westminster* on a certain day now past to be paid to the said *Ruth* for the damages, costs and charges aforesaid (our writ of error and our writ of *superfedeas* thereon obtained in any wise notwithstanding); and you on that day thereupon returned to us, that the said *Thomas* had no goods or chattels in your bailiwick whereof you could cause to be made the damages, costs and charges aforesaid, or any penny thereof; whereupon on the behalf of the said *Ruth* in our court before us at *Westminster* it was sufficiently testified, that the said *Thomas* had sufficient goods and chattels in the county of *Middlesex* whereof the sheriff of the county of *Middlesex* might cause to be made the damages, costs and charges aforesaid; whereupon we commanded the sheriff of the county of *Middlesex*, that he should cause to be made of the goods and chattels of the said *Thomas* in his bailiwick 300 l. 6 s. for the damages, costs and charges aforesaid, and that he should have that money before us at *Westminster* on day next after to be paid to the said *Ruth* for the damages, costs and charges aforesaid (our writ of error and our writ of *superfedeas* thereon obtained in any wise notwithstanding); and our said sheriff of *Middlesex* on that day returned to us, that to make execution of the writ aforesaid to him directed, he had sent to the bailiff of the liberty of the dean and chapter of the collegiate church of *St. Peter Westminster*, who hath the full execution of all warrants, writs and precepts to him directed; which said bailiff, to wit, *R. Knipe, Esq;* answer'd him thus: That of the goods and chattels of the said *Thomas B.* he had caused to be made 86 l. 15 s. parcel of the damages aforesaid, which said money before us at the day and place aforesaid he had ready, as he by the writ aforesaid was commanded, to be paid to the said *Ruth* in part of satisfaction of those damages; and he farther certified, that the said *Thomas* had no other or more goods or chattels in his bailiwick whereof he could cause to be made the residue of the damages aforesaid, or any part thereof: Therefore we command you, that you take the said *Thomas*, if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us at *Westminster* on day next after to satisfy the said *Ruth* 213 l. 11 s. the residue of the said 300 l. 6 s. the damages aforesaid; And have there then this writ. Witness *J. Holt, Knt. &c.*

The within named *Thomas Butler* is not found in our bailiwick.

The answer of { *Barth. Gracedieu, Knt.* }
and { } sheriffs.
{ *James Collet, Knt.* }

ANNE, &c. To the sheriff of *Middlesex*, greeting: We command you, that you take *Anne B.* late of *Westminster* in your county, widow, if she shall be found in your bailiwick, and her safely keep, so that you may have her body before us wheresoever, to satisfy *Thomas J.* and *Mary* his wife, administratrix of the goods and chattels which belonged to *Silvan Rowley*, Gent. deceased, who died intestate, 77 *l.* which the same *Thomas J.* and *Mary* his wife lately in the court of the Lord *William* the Third, late King of England, &c. before *Edward Nevill*, Knt. *John Powell*, Knt. and *J. B.* Knt. justices of the same late King of the Bench at *Westminster* recovered against her for their damages which they had sustained; as well by reason of the non-performance of a certain promise and assumption lately made to the said *Silvan* in his life-time by the said *Anne B.* as for their costs and charges by them about their suit in that behalf expended, whereof the said *Anne* is convicted, as by the inspection of the record and proceedings thereof, which the same late King caused to be brought into the court of the said late King before the late King himself, for certain causes of error, and which in our court before us, being in all things affirmed, now remaining appears to us on record, as also 14 *l.* which to the same *Thomas* and *Mary* in our same court before us, according to the form of the statute in such case made and provided, were adjudged for their damages, costs and charges, which the said *Thomas* and *Mary* sustained by reason of the delay of the execution of the judgment aforesaid, by the pretence of the prosecution of the said writ of the same late King to correct error by the said *Anne* of and upon the premisses as aforesaid prosecuted, whereof the same *Anne* is likewise convicted, as it also appears to us on record; And have there this writ. Witnesses, &c.

Ca. sa. for an administratrix in case on a judgment affirmed on a writ of error in K. B. in the time of the late King.

H. 7. c. 10.
13 C. 2. c. 2.
§ 10.

ANNE, &c. To the sheriffs of *London*, greeting: We command you, that you take *Samuel S.* late of, &c. *E. L.* late of, &c. *J. B.* late of, &c. and *W. K.* late of, &c. if they shall be found in your bailiwick, and them safely keep; so that you may have their bodies before us from day of wheresoever; &c. to satisfy *George O.* 407 *l.* 10 *s.* which the same *George* by plea in the court of the Lord *William* the Third, late King of England, &c. before *Thomas Trevor*, Knt. and his companions; justices of the same late King of the Bench at *Westminster*, and by the judgment of our court of the Bench thereupon, before the said *Thomas Trevor*, Knt. and his companions; our justices of the Bench; hath recovered against them for his damages which he sustained, as well by reason of the non-performance of certain promises and assumptions by them the said *Samuel*, *E. J.* and *W.* to the same *George* lately made, as for his costs and charges by him about his suit in that behalf expended; whereof the same *Samuel*, *E. J.* and *W.* are convicted, as by the inspection of the record and proceedings thereof, which we lately caused to be brought into our court before us, for certain causes of error appears to us on record; as also 14 *l.* which to the same *George* in our said court before us, according to the form of the statute in such case lately made and provided, were adjudged for his damages, costs and charges; which the said *George* sustained by reason of the delay of the execution of the judgment aforesaid; on pretence of the prosecution of our said writ of error by the said *Samuel*, *E. J.* and *W.* of and upon the premisses as aforesaid prosecuted, whereof the said *Samuel*, *E. J.* and *W.* are likewise convicted, as it also appears to us on record; And have there this writ. Witnesses, &c.

Ca. sa. on a judgment affirmed where the *legula* was in one King's reign and the judgment in another.

H. 7. c. 10.
13 C. 2. c. 2.
§ 10.

ANNE, &c. To the sheriff of *Rutland*, greeting: We command you, that you take *W. J.* if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us at *Westminster* on day next after to satisfy *John C.* and *Elizabeth* his wife 27 *l.* which to the same *John* and *Elizabeth* his wife in our court before us at *Westminster*, according to the form of the statute thereof lately made and provided, were adjudged for their costs and charges by them sustained about their defence in a certain action of trespass and ejectment which the said *W. J.* in our court before us at *Westminster* against the said *J.* and *E.* his wife brought and prosecuted, whereof the same *W. J.* in our said court before us is convicted, as it appears to us on record; And have there then this writ. Witnesses *J. Holt*, Knt. &c.

Ca. sa. against the plaintiff on a judgment for the defendant on a special verdict in ejectment.
23 H. 8. c. 6.
8 El. c. 2.

Capias si laicus.

Capias si laicus out of Chancery, returnable in K. B.

JAMES, &c. To the sheriff of *Monmouth*, greeting: Because *R. Ballard* of the town of *Monmouth* in your county, Gent. 24th day of *June* in the 25th year of the reign of the Lord *Charles* the Second, late King of *England*, &c. of blessed memory, and in the year of the Lord 1673, before *C. G. Esq;* then mayor of the city of *Bristol*, keeper of the greater piece of the seal appointed for the sealing of statutes merchant within the city aforesaid, and *Robert A. Esq;* assigned to take recognisances of the debts of merchants within the same city, keeper of the other piece of the same seal, acknowledged he owed to *Ralph Oliffe* late of the city of *Bristol* in the county of the city of *Bristol* aforesaid, vintner, deceased, 500*l.* of lawful money of *England*, which he ought to have paid to him on the feast of *All Saints* then next ensuing, and hath not yet paid them to the said *Ralph* in his life-time, nor to *John Oliffe*, vintner, the executor of the last will and testament of the said *Ralph*, after the death of the said *Ralph*, as it is said, we command you, that you take the body of the said *Richard*, (if he be lay) and him in our prison safely cause to be kept, until he hath fully satisfied the said executor the said 500*l.* and how you shall have performed this our commandment certify to us on the Octave of *St. Hillary* by your letters sealed; And have there this writ. Witness Ourselves at *Westminster* 8th day of *December* in the 3d year of our reign.

13 E. 1. c. 1.

The within named *R. Ballard* is lay, and is not found in my bailiwick.

The answer of *A. B. Knt.* sheriff.

The entry thereof on the roll. H. 3 & 4 Jac. 2.

England, to wit. **T**HE sheriff was commanded, that he should take the body of *R. B.* of the town of *Monmouth* in the county of *Monmouth*, Gent. if he was lay and had been found in his bailiwick, and him in the prison of the Lord the King should safely cause to be kept, until he had fully satisfied *John Oliffe*, vintner, executor of the last will and testament of *R. O.* late of the city of *Bristol*, vintner, deceased, 500*l.* which the same *R. B.* 24th day of *June* in the 25th year of the reign of the Lord *Charles* the Second, late King of *England*, &c. of blessed memory, and in the year of the Lord 1673, before *C. G. Esq;* then mayor of the city of *Bristol*, and *R. A.* then clerk, assigned to take recognisances of the debts of merchants within the same city, acknowledged he owed to the same *Ralph*, which he ought to have paid him on the feast of *All Saints* then next ensuing, and hath not yet paid them either to the said *Ralph* in his life-time or to the said *John* the executor aforesaid after the death of him the said *Ralph*, &c. and how, &c. he should certify here on this day, to wit, on the Octave of *St. Hillary* wheresoever, &c. And now here on this day comes the said *J. Oliffe* by *J. L.* his attorney, and produces here in court as well the letters testamentary of the said *R. Oliffe*, whereby it sufficiently appears to the court of the said Lord the King here, that he the said *J. Oliffe* is executor of the will aforesaid, and thereof hath the administration, &c. as the recognisance aforesaid, which the debt aforesaid testifies in form aforesaid: And the sheriff now returns, that the said *R. B.* is lay, and is not found in his bailiwick; and upon this the said *J. Oliffe* prays the writ of the Lord the King by the statute to the sheriff of the county aforesaid to be directed; and to him it is granted, &c. and how, &c. let the sheriff certify on the Octave of the Purification of the Blessed *Mary*: The same day is given to the said *J. Oliffe*, &c.

Somerſet,

Somerset, to wit. **T**HE sheriff was commanded, that he should take the body of *J. H.* The entry of
of *K.* in the parish of *B.* in the county of *S.* Gent. if he was lay, a *capias si lai-*
and had been found in his bailiwick, and him in the prison of the Lord the King should *cus, extent,*
safely keep, until he had fully satisfied *Anne Henley* of *C.* in the county of *D.* spinster, *inquisition*
Sarah Wallow of *C.* aforesaid, widow, and *E. H.* of *C.* aforesaid, spinster, 80*l.* which the *and liberate*
same *J.* on the first day of *July* in the 24th year of the reign of the Lord *Charles* the *thereon.*
Second, late King of *England*, before *J. P.* Esq; then mayor of the city of *O.* and *S. J.* *Trin. 1 Ja. 2.*
Gent. then clerk of the same city, assigned to take recognisances of debts in the city aforesaid, *Ro. 1032.*
acknowledged he owed to the said *A. S.* and *E.* which he ought to have paid to them
on the feast of *St. Michael* the Archangel then next ensuing, and which he hath not yet
paid to them, as it is said; and how, *&c.* he should certify to the said Lord the King on
the morrow of the Holy *Trinity*, wheresoever, *&c.* by his letters sealed, *&c.* And now
here on this day come the said *A. S.* and *E.* by *J. L.* their attorney, and produce here in
court the recognisance aforesaid, which the debt aforesaid in form aforesaid testifies, the
date whereof is the day and year above said; and the sheriff now returns, that the said *J.*
&c. And upon this the said *A. S.* and *E.* pray a writ by the statute to the sheriff of the
county aforesaid to be directed; and to them it is granted; and how, *&c.* let the sheriff
certify to the said Lord the King from the day of *St. Michael* in three weeks, wheresoever,
&c. On which day before the said Lord the King at *Westminster* come the said *A. S.* and
E. by their attorney aforesaid; and the sheriff of the said county of *S.* to wit, *W. F.* Esq;
now returns to the said Lord the King a certain inquisition taken before him at *D.* in the
county aforesaid, 14th day of *October* last past, by the oath of 12, *&c.* whereby it is found
that the said *J. H.* in his life-time, to wit, on the first day of *July* in the 28th year of the
reign of the Lord *Charles* the Second, late King of *England*, *&c.* was seised in his demesne
as of fee of and in a messuage lying and being at *T.* within the parish of *C.* in the county
aforesaid, of the clear yearly value in all issues, besides reprises, 20*l.* And it is farther
found by the inquisition aforesaid, that the said *J. H.* in his life-time, to wit, on the first
day of *July* in the said 28th year of the reign of *Charles* the Second, the late King aforesaid,
or ever after, had no other lands or tenements in his bailiwick, to the knowledge of
the jurors of that inquisition, which could in any manner be extended or appraised; which
said messuage he the said sheriff on the day of the caption of the inquisition aforesaid had
caused to be delivered to the said *A. S.* and *E.* by the price and extent aforesaid; To hold
to them and their assigns as their freehold, according to the form of the statute aforesaid,
until they shall have thereout levied the debt aforesaid, with their necessary and reasonable
damages and costs, as in labours, suits, delays and expences.

Capias

Capias utlagatum.

A special *capias utlagatum* after an outlawry on a judgment affirmed on a writ of error in K. B.

WILLIAM, &c. To the sheriff of *Monmouth*, greeting: We command you, that you do not omit on account of any liberty of your county, but by the oath of good and lawful men of your same county you diligently inquire what goods and chattels, lands and tenements, *J. E.* late of *Pennycloath* in your county, Gent. otherwise called, &c. hath or had in your bailiwick on *Thursday*, to wit, 21st day of *May* in the 8th year of our reign, or ever after, on which day he was outlawed at *Monmouth* in your county, to satisfy *H. Probert*, Esq; late sheriff of your county, 120*l.* debt which the same *H. P.* lately in our court and of our late Queen now deceased, before our justices and our said Queen of the Bench at *Westminster* recovered against him, and also 11*l.* which to the same *H. P.* in our same court were adjudged for his damages which he sustained as well by reason of the detention of that debt, as for his costs and charges by him about his suit in that behalf expended, whereof the same *J. E.* is convicted, as by the inspection of the record and proceedings thereof, which we lately caused to be brought into our court before us, by virtue of our certain writ and of our said Queen, to correct error by the said *J. E.* of and upon the premisses prosecuted, and which in our court before us in all this affirmed now remaining appears to us on record, and likewise 8*l.* which to the same *Henry* in our same court before us, according to the form of the statute in such case made and provided, were adjudged for his damages, costs and charges, which he sustained by reason of the delay of execution of the judgment aforesaid, on the pretence of the prosecution of the said writ of error by the said *J. E.* so as aforesaid prosecuted, as our then sheriff of *Monmouth* to us at *Westminster* on a certain day now past returned, and them by their oath cause to be extended and appraised, according to the true value of the same; and them which by that inquisition you shall find into our hands take, and cause safely to be kept, so that you may answer unto us for the true value and issues of the same; and they being so extended and appraised, what you shall have done therein certify to us on the morrow of the Ascension of the Lord wheresoever we shall then be in *England*, distinctly and openly under your seal and the seals of those by whose oath you shall make that extent and appraisement: And because the same *J. E.* so outlawed secretes himself, and runs up and down in your county, in contempt of us and to the prejudice of our crown, as we have understood, we command you, that you take the said *John* wheresoever he shall happen to be found in your bailiwick, as well within liberties as without, and him safely keep, so that you may have his body before us at the said time wheresoever, &c. to do and receive what our court before us shall consider in this behalf; And have there this writ. Witness, &c.

Capias in withernam.

WILLIAM, &c. To the sheriff of Surry greeting: Whereas we lately com-^{Capias in withernam.}manded you by our writ, that whereas Thomas B. Gent. had been attached by our writ of second deliverance to be in our court before us to answer to John S. in a plea, why he took the cattle of him the said John and them unjustly detained, against surety and pledges; and the same John S. in our same court made default, whereby it was considered in our same court, that the said Thomas B. should go thereof without day, and that the said John S. and his pledges to prosecute should be in mercy; and that the said Thomas B. should have a return of the cattle aforesaid irreplegable, and that you should without delay cause those cattle to be returned to the said Thomas B. to be detained by him irreplegable for ever; and how you should execute that writ you should certify to us wheresoever we should then be in England: And you on that day returned, that the cattle aforesaid were eloined by the said John S. to places to you unknown, so that you could not return or deliver those cattle to the said Thomas B. as by the writ aforesaid you was commanded: Therefore we command you, that as many cattle of him the said John S. to the value of the cattle aforesaid by him the said Thomas B. first taken you take in withernam, and them to the said Thomas B. deliver, to hold to him irreplegable, until you can cause the cattle aforesaid first taken to be returned to the said Thomas B. and how, &c. and put by surety and safe pledges the said John S. that he be before us from the day of wheresoever we shall then be in England, to answer as well to us for the contempt, as to the said Thomas B. for his damages and injuries in this behalf done; And have there this writ.

Certiorari.

Certiorari to the chief justice of England to certify the tenor of a record and judgment in K. B. into Chancery.

CHARLES the Second, by the grace of God, of *England, Scotland, France and Ireland* King, defender of the faith, &c. To our trusty and well beloved *John Kelynge*, Knt. our chief justice assigned to hold pleas before us, greeting: We being willing, for certain reasons, to be certified on the tenor of the record of a certain plaint which was in our court before you by bill, between *Dorothy Toone*, widow, and *Francis Theobald*, Esq; late sheriff of the county of *Suffolk*, in a certain plea of trespass on the case, to the damage of the said *Dorothy* by the said *Francis* done, as it is said, and also of the rendition of the judgment in the same court in *Easter* term last against the said *Francis* in the plaint aforesaid of the plea of trespass on the case aforesaid, command you, that the tenor of the record and proceedings of the plea aforesaid, and of the judgment, with all things touching them, by whatever names the parties aforesaid in the plea aforesaid are called, you distinctly and openly without delay send to us in our Chancery under your seal, and this writ. Witness Ourself at *Westminster* 12th day of *July* in the 19th year of our reign.

Goldman.

The answer of the chief justice.

The answer of *John Kelynge*, Knt. the chief justice within specified: The tenor of record and proceedings of the plaint and judgment, whereof in the writ within written mention is made, with all things touching them, to the Lord the King in his Chancery, as by the writ aforesaid I am commanded, I send.

Jo. Kelynge.

The tenor of Pleas before the Lord the King at Westminster of Hillary term in the 18th and 19th year of the reign of the Lord Charles the Second now King of England, &c. Roll 958.

Suffolk, to wit. **B**E it remember'd, that otherwise, to wit, in *Michaelmas* term last past before the Lord the King at *Westminster* came *Dorothy Toone*, widow, by *J. S.* her attorney, and produced in the court of the said Lord the King then there her certain bill against *Francis Theobald*, Esq; late sheriff of the county of *Suffolk* aforesaid, in the custody of the marshal, &c. in a plea of trespass on the case (so on the judgment to) of increase adjudged; which said damages in the whole amount to 122 l. And the said *Francis Theobald* in mercy, &c.

William,

William, &c. To George Treby, Knt. our chief justice of the Bench at Westminster, greeting: We being willing, for certain reasons, to be certified whether there is any record of the admission of *Thomas Pryor* to warrant his appearance as his *procbein amy* for *Richard Read*, otherwise *Covey*, against *Richard Waldron*, in a plea of trespass, assault and imprisonment, in our court and of our late Queen deceased of the Bench at Westminster inrolled on record of *Trinity* term in the 5th year of our reign and of our said late Queen, or not, command you, that searching the records of the inrolment of the admission of infants to prosecute in the said court of the Bench aforesaid by their *procbein amy* of the said *Trinity* term in the 5th year of our reign and of our said late Queen, and what of the entry of that admission between the parties aforesaid you shall find, as fully and intirely as before you it remains, certify to us wheresoever, &c. without delay, together with this writ, that we may farther cause to be done therein what of right and according to the law and custom of our kingdom of *England* we shall see fit to be done. Witness *J. Holt*, Knt. at Westminster 23d day of *April* in the 7th year of our reign.

Certiorari to certify the admission of an infant by procbein amy.

By virtue of this writ to me directed, I do certify to the Lord the King, that having searched the records of the entries of the admission of infants to prosecute in the within written court of the Bench of the within written *Trinity* term in the 5th year of the reign of the Lord the now King and of our late Queen, I have in the same found an entry on record of a certain admission of the same *Thomas Pryor*, to warrant his appearance as *procbein amy* of the within written *Richard Read*, otherwise *Covey*, against the within written *Richard Waldron* in the plea within written; the tenor of which said record appears in a certain schedule to this writ annexed.

George Treby.

Pleas inrolled at Westminster before G. Treby, Knt. and his companions, justices of the Lord and Lady the King and Queen of the Bench of Trinity term in the 5th year of the reign of the Lord and Lady William and Mary, of England, Scotland, France and Ireland King and Queen, defenders of the faith, &c. Roll 1165.

North'ton, to wit. **I**t is granted by the court of the Lord and Lady the King and Queen here, that *Thomas Pryor*, Gent. may prosecute for *Richard Read*, otherwise *Covey*, who is under the age of 21 years, as the *procbein amy* of the same *Richard*, against *Richard Waldron* in a plea of trespass, assault and imprisonment, &c.

The admission.

William and Mary, by the grace of God, of *England, Scotland, France and Ireland* King and Queen, defenders of the faith, &c. To our trusty and well beloved *John Holt*, Knt. our chief justice assigned to hold pleas before us, greeting: Because we are willing to be certified of a certain record of a declaration or bill between *Benjamin T.* and *Thomas K.* Knt. late sheriff of the county of *Middlesex*, and *John C.* otherwise called *John C.* of the parish of *St. Clement Danes* in the county of *Middlesex*, of debt 40 l. which the same *Benjamin* and *Thomas* demand of the said *John*, as it is said, and of the leave to imparl to that declaration or bill, being in your custody of record, we command you, that searching the declaration or bills and imparlances between the parties aforesaid in our court before us of *Easter* term in the second year of our reign, being in your custody, what thereof in the same you shall find certify to us in the court of our Exchequer chamber at Westminster without delay, together with this writ. Witness *Edward Nevil*, Knt. at Westminster 16th day of *April* in the fourth year of our reign.

Otherwise to the chief justice of the K. B. to certify the bill and imparlance into the Exchequer chamber.

The answer of John Holt, Knt. the chief justice of the Lord and Lady the King and Queen, assigned to hold pleas in the court of the said Lord and Lady the King and Queen before the King and Queen themselves.

The answer
of the chief
justice.

BY virtue of this writ to me directed, I do certify to the Lord and Lady the King and Queen within written, that the declaration or bills and imparlances in the court of the Lord and Lady the King and Queen before the King and Queen themselves, of *Easter* term in the second year of their reign, being in our custody of record being searched, there is not any declaration or bill between the parties within named in the plea within written in our custody of the said term filed, which to the said Lord and Lady the King and Queen I can certify, as I am within commanded.

J. Holt.

to May 1692. I have searched;
and there is no declaration or
bill filed. *T. Bromfield.*

To certify the
writ of in-
quiry.

27 El. c. 8.

William, &c. To our trusty and well beloved *John Holt*, Knt. our chief justice, assigned to hold pleas in our court before us, greeting: Because in the record and proceedings, and also in the rendition of the judgment between *Christopher Ashmead* and *Charles Ranger* the younger, of a plea which was in our court before us by bill, without our writ, between the said *Christopher Ashmead*, plaintiff, and the said *Charles Ranger* the younger and one *Edward Hort* now deceased, of a certain trespass by the said *Charles* and *Edward* to the said *Christopher* done, as it is said, a manifest error hath happened, to the great damage of him the said *Charles*, as we have by his complaint understood, the record and proceedings of which said judgment before our justices of the Common Bench, and the barons of the Exchequer who are of the degree of the coif, to correct the errors in the same, according to the form of the statute of the 27th year of the Lady *Elizabeth*, late Queen of *England* thereof provided, into the court of the chamber of our Exchequer aforesaid we have caused to be brought; and the said *Charles* appearing in the same court of Exchequer chamber hath said, that no writ of inquiry of damages between the same *Christopher* and the said *Charles* in the plea aforesaid is filed of record, nor of record remains: And we being willing to be certified thereof in this behalf, command you, that our writs of inquiry of damages of our county of *Wilts* of *Easter* term in the 12th year of our reign, being in your custody of record being searched, what of the writ of inquiry of damages aforesaid between the parties aforesaid in the plea aforesaid you shall find in your custody of record in the same, together with the return thereof, to our justices of the Common Bench, and to the barons of our Exchequer who are of the degree of the coif, immediately into the Exchequer chamber aforesaid you certify, together with this writ. Witness *E. Ward*, Knt. at *Westminster* 10th day of *May* in the 13th year of our reign.

The answer of John Holt, Knt. the chief justice within named.

The return.

THE files of the writs of inquiry of damages of *Easter* term within written being in my custody of record being searched, I do there find a certain writ of inquiry of damages between the parties within named in the plea within mentioned filed on record; which said writ, together with the return thereof, I do in a certain schedule to this writ annexed certify to the justices of the Lord the King of the Common Bench, and the barons of the Exchequer within named, as I am within commanded.

J. Holt.

Otherwise to
certify dimi-
nution of
words in the
record.

27 El. c. 8.

ANNE, &c. To our trusty and well beloved *T. Parker*, Knt. our chief justice assigned to hold pleas before us, greeting: Because in the record and proceedings, and also in the rendition of the judgment of a plea which was in our court before us, by bill, between *George Baker* the elder and *James Campbell*, of a certain trespass on the case on the same *George* by the said *James* committed, as it is said, a manifest error hath happened, to the great damage of him the said *James*, as by his complaint we have understood: The record and proceedings of which said judgment before our justices of the Common Bench and the barons of the Exchequer who are of the degree of the coif, to correct the errors in the same, according to the form of the statute of the 27th year of the Lady *Elizabeth*, late Queen of *England*, &c. thereof made and provided, into the court of the chamber of our Exchequer aforesaid we have caused to be brought: And because the same justices and barons, for certain reasons them especially moving before they

they proceed in this behalf, are willing to be certified and informed whether these words [of the non-performance of the first promise and assumption aforesaid] between these words [by reason] and these words [ought to recover] are inserted in the writ of inquiry of damages between the parties aforesaid in the plea aforesaid, or not; and whether these words [of the non-performance of the first promise and assumption aforesaid] between these words [as well by reason] and these words [as for his costs] are inserted in the same writ, or not; and whether this word [this] between this word [in] and this word [behalf] be omitted in the same writ, or not; and whether this word [that] between the same word [in] and the same word [behalf] is inserted, or not; and whether these words [And by reason of the non-performance of the second promise in the same writ likewise mentioned to one penny] between these words [eight pounds] and these words [and for his costs] are omitted in the inquisition to the same writ annexed, or not: Therefore we command you, that our writs of inquiry of damages to the sheriffs of our city of *London* directed, and the inquisitions to those writs annexed and thereon taken, being filed of record in our court before us of *Trinity* term in the 10th year of our reign in your custody, being searched, what of the said words, so as aforesaid omitted and inserted in the same writ of inquiry of damages aforesaid, and in the inquisition aforesaid to the same writ annexed, you shall find, to the justices and barons aforesaid in the said court of Exchequer chamber you without delay certify: And because the same justices and barons are willing to be farther certified, whether these words [And by reason of the non-performance of the second promise in the declaration aforesaid likewise mentioned to one penny] between these words [eight pounds] and these words [and for] are omitted in the record of the judgment between the parties aforesaid in the plea aforesaid, or not; and whether this word [those] between this word [for] and this word [costs] is inserted in the same record, or not; and whether this word [therefore] immediately before these words [it is considered] is inserted in the same record, or not; and whether these words [And upon this the same *George* freely here in court remits to the said *James* the said one penny by the inquisition aforesaid in form aforesaid found, by reason of the non-performance of the second promise, therefore the said *James* from the said one penny may be quit, and go thereof without day, &c.] are omitted in the same record, or not; and whether these words [the residue of the damages] between this word [*James*] and this word [aforesaid] are omitted in the same record, or not; and whether this word [damages] between the same word [*James*] and the same word [aforesaid] is inserted in the same record, or not: Therefore we likewise command you, that the record of the judgment aforesaid between the parties aforesaid in the plea aforesaid of *Easter* term in the 10th year of our reign, Roll 377. filed in our court, being in your custody, being searched, what of the said words in the same record, so as aforesaid omitted and inserted, you shall find, to the justices and barons aforesaid in the said court of Exchequer chamber you likewise without delay certify, together with this writ. Witness *Thomas Lord Trevor* at *Westminster* 23d day of *October* in the 12th year of our reign.

To the justices and barons within written: I certify that the writs of the Lady the Queen of inquiry of damages to the sheriffs of the city of *London* directed, and the inquisitions to those writs annexed and thereon taken in the court of the Lady the Queen before the Queen herself of *Trinity* term in the 10th year of the reign of the said Lady the Queen, being in my custody of record, being searched, I do find that in the writ of inquiry of damages between the parties within written in the plea within written of record filed these words [of the non-performance of the first promise and assumption aforesaid] between these words [by reason] and these words [ought to recover] are inserted: I do likewise find in the same writ, that these words [of the non-performance of the first promise and assumption aforesaid] between these words [as well by reason] as these words [as for his costs] are inserted: I do farther find, that this word [this] between this word [in] and this word [behalf] is omitted in the same writ, and that this word [that] between the same word [in] and the same word [behalf] is inserted in the same writ: I find likewise in the inquisition to the same writ annexed, that these words [and by reason of the non-performance of the second promise in the same writ likewise mentioned to one penny] between these words [eight pounds] and these words [and for] wholly omitted: And I do farther certify to the justices and barons within specified, that the record of the judgment between the parties aforesaid in the plea aforesaid of *Easter* term in the 10th year of the reign of the said Lady the Queen, Roll 377. being filed in the court of the said Lady the Queen before the Queen herself in my custody, being searched, I do find that these words [and by reason of the non-performance of the second promise in the declaration aforesaid likewise mentioned to one penny] between these words [eight pounds] and these words [and for] intirely omitted in the same record: I likewise find that this word [those] between this word [for] and this word [costs] is inserted in the same record: I do farther find that this word [therefore] immediately before these words [it is considered] is inserted in the same record, and that these words [and upon this the same *George* freely here in court remits to the said *James* the said one penny by the inquisition aforesaid in form aforesaid found, by reason of the non-

The return?

performance of the said second promise, therefore the said *James* from the said one penny may be quit, and go thereof without day, &c. Therefore no respect being had to the said one penny above in form aforesaid remitted] between these words [eight pence] and these words [therefore it is considered] are wholly omitted in the same record; and also that these words [the residue of the damages] between this word [*James*] and this word [aforesaid] are omitted in the same record: I find lastly, that this word [damages] between the same word [*James*] and the same word [aforesaid] is inserted in the record aforesaid, as I am within commanded.

The answer of *Thomas Parker*, Knt. the chief justice within mentioned.

T. Parker.

Return.
No bill filed.

I do certify to the justices and barons within written, that the declaration or bills, being in my custody of record of the term and year within mentioned, being searched, there is not in the same any declaration or bill between the within named *Edward Rotbe* and *Edward Browne* of a certain trespass on the case to the said *Edward Rotbe* by the said *Edward Browne* done. Ex. *Tbo. Bromfield*.

J. Holt.

Otherwise to
certify a war-
rant of at-
torney.

GEORGE, &c. To our trusty and well beloved *Peter King*, Knt. our chief justice of the Bench, greeting: We being willing, for certain reasons, to be certified whether *Edward C.* executor of the last will and testament of *Edward Cleve* his late father deceased, made *Henry W.* his attorney against *Thomas Smith*, Gent. one of the attornies of our court of the Bench, in a plea of trespass on the case, before you and your companions, our justices of the Bench of record of *Hillary* term in the fourth year of our reign, or not, command you, that the rolls and other memorandums of the warrants of attorney of the county of *Somerset* of the said *Hillary* term in the fourth year of our reign aforesaid, being in your custody of record, being searched, what of the said warrant of attorney between the parties aforesaid in the plea aforesaid you shall find in the same, to us without delay wheresoever we shall then be in *England* you certify, together with this writ. Witness *J. Pratt*, Knt. at *Westminster* 23d day of *October* in the sixth year of our reign.

Ventris.

The answer of *Peter King*, Knt. the chief justice within named.

The return.

I do certify to the Lord the King within written, that the rolls and other memorandums of the warrants of attorney of the county of *Somerset* of the term and year within written, being in my custody, being searched, I have not found in the same any warrant of attorney between the within named *Edward Cleve*, executor of the last will and testament of *Edward Cleve* his father lately deceased, and *Thomas Smith*, Gent. one of the attornies of the court of the said Lord the King of the Bench in the plea within mentioned.

P. King.

Certiorari to
certify the
original.
Pract. Reg.
251.

GEORGE, &c. To our trusty and well beloved *George Earl of Litchfield*, keeper of the writs and rolls of our court of the Bench at *Westminster*, greeting: We being willing to be certified of a certain original writ in the city of *London* which issued out of our court returnable before the justices of the Bench aforesaid, between *J. S.* and *W. S.* and *John B.* late of *London*, merchant, in a plea of trespass on the case, to the damage of 600*l.* command you, that the original writs to the sheriffs of *London* directed, between the parties aforesaid of *Trinity* in the 7th year of our reign, being filed of record in your custody, being searched, what of the writ aforesaid you shall find, together with the return and indorsement of the same writ, as fully and intirely as it remains with you, to us without delay wheresoever we shall then be in *England* you certify, together with this writ. Witness *J. Pratt*, Knt. &c.

William,

William, &c. To S. Lovell, Knt. our serjeant at law, our chief justice assigned to hold pleas within the isle of *Ely* in our county of *Cambridge*, greeting: Because in the record and proceedings, and also in the rendition of the judgment of a plea which was before you in our court aforesaid, without our writ, between *William W.* and *Oliver S.* of a certain trespass on the case to the same *W.* by the said *O.* done, as it is said, a manifest error hath happened, to the great damage of him the said *O.* as by his complaint we have understood; and we have caused that record and proceedings to be brought before us to correct such error, and the said *O.* hath assigned errors in the record and proceedings aforesaid, and also in the rendition of the judgment aforesaid, as we have understood: And farther on the behalf of the said *W. W.* we have understood, that in the record and proceedings aforesaid, so as aforesaid certified, and to us certified, it is falsely certified, to wit, in the declaration in the record and proceedings aforesaid certified, between the words [and yet is possessed] and the words [acres by estimation] falsely is certified the word [semten] when in that record is the word [seventeen]; and also in another place of the same declaration between the words [near the said] and the word [acres] falsely also is certified the word [semten] when in that record is the word [seventeen]; and also in another place of the same declaration between the words [usual course obstructed] and the words [so that] falsely is certified the word [stipped] when in that record is the word [stopped]; and also in another place of the same declaration, between the words [by reason of the obstruction] and the words [aforesaid could not descend] falsely is certified the word [obstipation] when in that record is the word [stoppage]: And whereas as we are informed it appears in that record remaining in your custody before you, that all the said words in that record sent to us are falsely certified in such manner as is aforesaid, therefore we command you, that the rolls of the entry of the declaration aforesaid, being in your custody, being searched, what of the false certificates aforesaid you shall find to us wheresoever, &c. you without delay certify, sending back this our writ. Witness, &c.

Cartuarii to the Ch. J. of the isle of Ely to certify diminution, and whether the record is falsely certified.
M. 7 W. 3.

William, &c. To our trusty and well beloved *John Holt*, Knt. our chief justice assigned to hold pleas before us, greeting: Because in the record and proceedings, and also in the rendition of the judgment of a plea which was in our court before us by bill, between *H. E.* Knt. and *J. T.* Knt. sheriffs of the city of *London*, and *S. D.* of debt of 400 l. which the same *H.* and *J.* demand of the said *Stephen*, as it is said, a manifest error hath happened, to the great damage of the said *Stephen*, as by his complaint we have understood, the record and proceedings of which said judgment we have caused to be brought before our justices of the Common Bench, and the barons of our Exchequer who are of the degree of the coif, to correct the errors in the same, according to the form of the statute of the 27th year of the Lady *Elizabeth*, late Queen of *England* thereof provided, into the chamber of our Exchequer aforesaid; and the said *Stephen* appearing in the same Exchequer chamber hath said, that where by the record aforesaid sent to the same justices and barons it appears, that the said *H.* and *J.* in *Easter* term in the first year of the reign of the Lord and Lady *William* and *Mary*, now King and Queen of *England*, exhibited into the said court of the Lord and Lady the King and Queen their bill against him the said *Stephen* in the plea aforesaid, and that he the said *Stephen* was in the custody of the marshal of the *Marshalsey* of the said Lord and Lady the King and Queen before the King and Queen themselves: Nevertheless the same *Stephen* at any time before, or at the same time of the exhibition of the bill of them the said *H.* and *J.* was not in the custody of the marshal of the *Marshalsey* of the said court of the Lord and Lady the King and Queen, neither was any bail ever filed for him the said *Stephen* in the same court, nor any such bill and the continuances thereon indorsed in our said court of the same term before us of record remaining; and where by the record aforesaid so as aforesaid sent it appears that the said *Stephen* constituted one *C. B.* his attorney against the said *H.* and *J.* in the plea aforesaid; nevertheless the said *Stephen* hath said, that the said *C. B.* had no warrant of attorney thereof on record filed: And we being willing to be certified of the premisses aforesaid in this behalf, command you, that the files of the bails of the city of *London*, and of the bills of the said *Easter* term in the year aforesaid in your custody, being searched, and also the rolls and other memorandums of the warrants of attorney of the same term, in your custody of record likewise remaining, being searched, what of the said bail, bill and continuances thereon indorsed, and warrant of attorney aforesaid you shall find, to our justices of the Common Bench and the barons of the Exchequer of the degree of the coif, immediately into the chamber of our Exchequer aforesaid you certify, together with this writ. Witness, &c.

Cartuarii to certify diminution of a bill, bail and warrant of attorney into the Exchequer chamber.

27 El. c. 8.

The

The answer of John Holt, Knt. the chief justice within named.

The return.

Having searched the files of bills of the city of *London*, and also of the bills of *Easter* term within written, being in my custody of record, I find no bill nor bill between the parties within written in the plea within specified filed on record; having searched likewise the rolls and other memorandums of the warrants of attorney of the same term between the parties within written, being likewise in my custody on record, I there find no warrant of attorney filed on record: And this I certify to the justices of the Lord and Lady the King and Queen of the Common Bench and the barons of the Exchequer within written, as I am commanded.

J. Holt.

Certiorari to Ireland to certify a bill and warrants of attorney.

William, &c. To our trusty and well beloved counsellor *Richard P. Knt.* our chief justice assigned to hold pleas in our court before us in our kingdom of *Ireland*, greeting: Because in the record and proceedings, and also in the rendition of the judgment of a plea which was in the court of the Lord *Charles* the Second, late King of *England*, before the said late King himself at the King's court in his kingdom of *Ireland*, by bill, between *James Shaen, Knt.* and *Wentworth Fitzgerald* Earl of *Kildare*, otherwise called *W. F. Earl of Kildare* in the kingdom of *Ireland*, as well of a debt of 3000 *l.* which one *J. Shaen* in the same court recovered against him, as of 28 *s. 2 d.* which to the same *James* in the same court were adjudged for his damages which he had as well by reason of the detention of the debt aforesaid, as for his costs and charges by him about his suit in that behalf expended, as it is said, a manifest error hath happened, to the great damage of *John* now Earl of *Kildare*, the son and heir of the said *W. F. late Earl of Kildare*, as by his complaint we have understood, the record and proceedings of which said judgment we have caused to be brought before us in *England* to correct the errors in the same; and the said *John* Earl of *Kildare* appearing in our court before us at *Westminster* hath said, that where by the record aforesaid before us sent it appears, that the said *J. Shaen* in *Easter* term in the 13th year of the reign of the Lord *Charles* the Second, late King of *England*, *Scotland*, *France* and *Ireland*, &c. exhibited into the said court of the said late King before the late King himself, at the King's court in his kingdom of *Ireland*, his bill against the said *W. F. Earl of K.* in the kingdom of *Ireland*, being in the custody of the marshal of the *Marshalsey* of the said late King before the late King himself in the plea aforesaid, yet no bill and continuances thereon indorsed in the plea aforesaid in the said court of the same term was or is filed and on record remaining; and where by the record aforesaid so as aforesaid sent it appears, that the said *J. Shaen, Knt.* constituted *P. P.* his attorney against the said *Wentworth* Earl of *Kildare* in the plea aforesaid; nevertheless the said *John* Earl of *Kildare* hath said, that the said *P. P.* had no warrant of attorney therefore filed on record; and also by the record aforesaid so as aforesaid sent it appears, that the said *W. F. Earl of Kildare*, constituted *J. K.* his attorney against the said *James Shaen, Knt.* in the plea aforesaid; yet the said *John* Earl of *K.* hath said, that the said *J. K.* had no warrant of attorney therefore filed on record: And we being willing to be certified of the premises aforesaid in this behalf, command you, that you search the files of bills of the said *Easter* term in the 13th year of the reign of the said late Lord King *Charles* the Second aforesaid, in your custody on record, and also the rolls and other memorandums of the warrants of attorney of the same term in your custody on record likewise remaining, and what of the said bill and continuances thereon indorsed, and warrants of attorney aforesaid you shall find, as fully and intirely as they remain in your custody to us without delay wheresoever we shall then be in *England* certify and send, together with this writ. Witness, &c.

The return.

I John Pyne, Knt. the chief justice within named to the Lord the King wheresoever, &c. do humbly certify, that searching the files of bills of *Easter* term within written, being in my custody on record, I there find no bill between the parties within written in the plea within written filed on record; searching also the rolls and other memorandums of warrants of attorney of the same term between the parties within written in the plea within written, being likewise in my custody on record, I there find no warrant of attorney of record filed.

R. Pym.

ANNE, &c. To the steward and bailiffs of *Henry Earl of Lempster*, Lord of the *Cartuarii* to
manor of *Corbon* in the county of *North'ton*, greeting: Being willing, for certain reasons, to be certified on a certain plaint in our court before you against *Samuel Rowlatt*,
Gent. at the suit of *George Shipley* in a plea of trespass on the case, we command you, that
the plaint aforesaid as fully and intirely, with all things touching it, as it remains before
you, by whatever names the same S. R. and G. S. may be called in the same, to us without
delay, wherefoever we shall then be in *England*, you certify and send, together with this
writ, that we may farther cause to be done therein as of right we shall see fit to be done.
Witness *J. Holt*, Knt. &c.

William, &c. To *W. T. Esq.*, the *custos brevium* of the Bench, greeting: Being will-
ing, for certain reasons, to be certified of a certain original writ which issued out
of our court of Chancery, returnable before our justices of the Bench aforesaid, against
Howell John Howell late of the parish of *Crickbowell* in the county of *Brecon*, yeoman, at
the suit of *Kynvyn Harry* and *Elizabeth* his wife, in a plea of trespass and assault, to the
damage we command you, that you search the original writs of the county of
Monmouth of *Michaelmas* term in the 9th year of our reign, being in your custody of
record, and what of that writ you shall find, together with the return of the same, as fully
and intirely as it remains with you to us without delay wherefoever we shall then be in
England certify, together with this writ. Witness *J. Holt*, Knt. &c.

The answer of W. T. Esq. the custos brevium within named.

By virtue of this writ to me directed, I do certify to the Lord the King, that the ori-
ginal writs of the said Lord the King of his county of *Monmouth* of *Michaelmas* term in
the 9th year of his reign, being in my custody of record, being searched, there is a
certain original writ in the plea within written between the parties within named in my
custody of the said term filed; the tenor of which said writ, together with the return of
the same, as fully and intirely as in my custody filed remaining, to the Lord the King I
certify, as appears in a certain schedule to this writ annexed, as I am within commanded.

W. S.

William, &c. To the sheriff of *Monmouth*, greeting: If *Kynvyn Harry* and *Elizabeth*
his wife shall make you secure to prosecute their plaint then put by surety and
safe pledges *Howell John Howell* late of *Crickbowell* in the county of *Brecon*, yeoman, that
he be before our justices at *Westminster* from the day of *St. Michael* in three weeks, to shew
why with force and arms on her the said *Elizabeth* at *Monmouth* he made an assault, and
her beat, wounded and abused, so that her life was despaired of, and other outrages on her
committed, to the great damage of them the said *Kynvyn* and *Elizabeth*, and against our
peace; And have there the names of the pledges, and this writ. Witness *Thomas arch-
bishop of Canterbury*, and the rest of the keepers and justices of the kingdom, at *Westminster*
the fourth day of *October* in the ninth year of our reign.

Gillingham.

Pledges to prosecute { *John Doe,*
and
Richard Roe.

The within named *Howell John Howell* hath nothing in my bailiwick whereby he can be
attached.

Theophilus Reynolds, Esq. sheriff.

Consultation.

Consultation
upon a sug-
gestion of a
modus for
tithes.

WILLIAM, &c. To the reverend and excellent man *Thomas B.* doctor of laws, of the reverend father in Christ *John* by divine permission Lord bishop of *Chichester*, in and thro' the whole archdeanary of *Lewis* in the diocese of *Chichester*, official principal, or other judge in that behalf competent: *William G.* vicar of the vicarage of the church of *W.* in the county of *Sussex*, hath shewn to us, that whereas he by the name of *W. G.* vicar of the vicarage of *W.* in the county of *S.* had lately in the court christian before you impleaded one *John R.* by the name of *John R.* of *W.* aforesaid, yeoman, for this, that the said *W. G.* in the months of *September, October, &c.* (and so recite the suggestion) and the said *J. R.* hath lately prosecuted and caused to be directed to you our certain prohibition out of our court before our justices at *Westminster*, that you should not farther hold the plea aforesaid in the court christian aforesaid before you, or any thing farther in that behalf attempt, by pretence of which our said prohibition you have from thence hitherto delayed, and yet do delay farther to proceed in the said cause of substraftion of the tithes aforesaid in this behalf alledged, as we have understood, to the great damage of the said *W. G.* and to the manifest prejudice of the ecclesiastical liberty: Wherefore the same *W.* hath in our court before our justices at *Westminster* humbly besought us to grant him our aid and assistance in this behalf; and we favourably consenting to the petition of him the said *W.* and being unwilling that the cognisance which to the ecclesiastical court in this behalf belongs should be farther delayed by such false and subtle assertions, because in our said court before our justices at *Westminster* it is in such manner proceeded, that it is considered by the same court that the said *W. G.* may have our writ of consultation to the court christian aforesaid, our said writ of prohibition aforesaid to the contrary thereof notwithstanding, whereof the said *J. R.* is convicted, as it appears to us on record: We therefore being unwilling that the said *W. G.* should be in any wise injured in this behalf, signify to you and command, that you may in that cause lawfully proceed, and farther do what you shall know to belong to the ecclesiastical court, our said prohibition to the contrary thereof before to you directed in any wise notwithstanding. Witness, &c.

Consultation
on a sug-
gestion that
the Earl mar-
shal had not
cognisance of
arms born by
a knight.
Parl. Rep. 59,
69.
9 H. 3. c. 29.

ANNE, &c. To the right honourable *Henry* Earl of *Bindon*, of the Earl marshal of *England*, &c. by our approbation, deputy or vicegerent, or to his vicegerent or surrogate, or deputy or other judge of the court of honour whatever in this behalf competent, greeting: *James Collett*, Knt. hath shewn to us in our court before us, that by the great charter of the liberties of *England* made at a parliament held at *Westminster* in the county of *Middlesex* in the 9th year of the reign of the Lord *Henry* the Third, late King of *England*, it was and is ordained and established, That no freeman should be taken or imprisoned, or disseised of his freehold, or liberties or free customs, or be outlawed or exiled, or any otherwise destroyed, nor would the King pass upon him nor condemn him but by lawful judgment of his peers, or by law of the land, as in the said statute more fully was contained; and whereas also the said *James Collett* was a freeman of *England* in the kingdom of *Great Britain*, and ought to enjoy the free customs of *England*, and against the same ought not in any wise to be disquieted or molested: And whereas also in and by a certain statute made in a parliament in the 8th year of the reign of the Lord *Richard* the Second, late King of *England*, &c. it was enacted, That all pleas and suits touching the common law should not then after be drawn or held by any means before the constable and

and marshal of *England*: And whereas also in and by another statute in a parliament held 13 R. 2. c. 2. in the 13th year of the reign of the same late King, and by divers other laws and statutes of *England*, it is provided, that to the constable and marshal it pertaineth to have cognisance of contracts touching deeds of arms and war out of the realm, and also of things that touch war within the realm, which cannot be determined nor discussed by the common law: And whereas the court having cognisance of contracts touching deeds of arms and war, ought only to be held before the constable and marshal of *England*, and not before the marshal only: And whereas also the court aforesaid by the law of the land ought to be held before the constable and marshal of *England*, and not before the deputy or vicegerent of such deputy of them, or either of them: And whereas also no freeman of *England* by the laws of *England* ought to be attached by his body, or detained in custody until he shall give surety to answer or obey any order or decree in the said court of honour, and the cognisance of all pleas and plaints of and concerning the painting and use of any coats of arms upon chariots, or otherwise, to the prejudice or damage of any subject of *England*, or otherwise, to the common law, and not to any court of honour, rightly and justly belongs: Nevertheless one *Nathaniel Lloyd*, doctor of laws, our advocate in the court of honour, contriving and intending the said *James*, against the laws of the land, unjustly to oppress and aggrieve, caused him the said *James* to be cited, to wit, at *Westminster* in the county of *Middlesex* aforesaid, that he should be before you to answer to certain articles or heads concerning his contempt of the jurisdiction and authority of the court of honour aforesaid, and of the law of arms, and especially in bearing, usurping, shewing and making use of arms and coats of arms, as the arms and family coats of arms of him the said *James*, and farther to do and receive what should be just in that behalf; and also thereupon procured a certain decree to attach and detain him the said *James* in custody until he should put in surety in 50*l.* and in case he should not put in such surety on or before, &c. On which day of the appearance of the said *James* the said *Nathaniel* exhibited, or caused to be exhibited in the said court of honour, certain articles against the said *James* in these words following, to wit, In the name of God, *Amen*: We *Henry* Earl of *Bindon*, of the Lord marshal of *England*, &c. by royal approbation, deputy or vicegerent, to you Sir *James Collet* of *London*, Knt. the within written articles concerning the contempt as well of our jurisdiction and authority, as of the duty and law of arms, and especially in bearing, usurping, making use of and publickly shewing arms, coats of arms and a crest, as your proper arms, coats of arms and crest, which to you in no manner did belong, nor do belong, and which by the law of arms you could not nor can bear, at the promotion of the reverend *Nathaniel Lloyd*, doctor of laws in our court of honour, our advocate royal; we object and articulate as follows, to wit, *Imprimis*, we object to you and articulate, that of right and by the law of arms no subject of this kingdom of *England*, of what estate, degree or condition soever he shall be, ought to assume to himself, or bear arms, or coats of arms, or a crest, unless he has them, or ought to have them, by the right of his ancestors, or by the gift of some person having sufficient power for that purpose; and we object jointly and severally, and of every one. *Item*, we object and articulate, that you the said Sir *James Collet* never had, nor have, any arms, coats of arms or a crest, to you or your family lawfully belonging, at least the arms, coats of arms and crest within described, to you and your ancestors did never lawfully belong, nor do belong; and we object as above. *Item*, we object and articulate, that notwithstanding the premises but they being true, you the said Sir *James Collet*, well knowing the premises, in the months of *December*, *January*, *February* and *March*, in the year of the Lord 1706, and also in the months of *March*, *April* and *May*, in the year of the Lord 1707 now current, and in every of them months, more than one or some, the arms, coats of arms and crest of the form in the shield of arms hereto annexed within described, to wit, sable on a chevron, between three hinds passant argent, as many amulets of the field, the crest a hind passant argent, as your proper family arms, coats of arms and crest, in fact on your chariot on both sides caused to be painted, and them for your arms, coats of arms and crest, to you and your family proper, and to you and your family lawfully belonging, on both sides to be born and shewu commanded, at least permitted, in all things, nevertheless, unjustly, and without any right and authority, and in contempt of our jurisdiction and authority, and the duty and law of arms, and to the intolerable injury of the nobility and gentry of this famous kingdom of *England*; we object nevertheless of every other time, &c. and we object as above. *Item*, we object and articulate, that you the said Sir *James Collet* was and are of the city of *London*, and to the jurisdiction of our court of honour subject and liable; and we object as above. *Item*, we object and articulate, that of and upon the premises, &c. *Item*, we object, that the premises, &c. And altho' the said *James* all and singular the premises above mentioned before us in his defence against any other proceedings on the articles aforesaid hath pleaded and alledged; nevertheless the same *Nathaniel* him the said *James* by colour of the premises to aggrieve and oppress, your definitive sentence

tence of and upon the premisses did endeavour to obtain, in contempt of us, and to the manifest disinherittance of our royal crown, and against the form and effect of the laws and statutes aforesaid, and to the damage and prejudice of him the said James: We believing and giving credit to the suggestion of the said James C. in this behalf, did on the petition of him the said James C. grant our prohibition, and cause it to be directed to you, to prohibit you that you should not attempt to hold or prosecute the plea aforesaid in the same court of honour before you against him the said James, by virtue of which our said prohibition in the plea aforesaid before you against the said James C. you have from thence desisted, and yet do desist farther to proceed, as by the report of the said Nathaniel L. we have lately in our court before us at *Westminster* understood: And because on the examination of the suggestion aforesaid in our court before us at *Westminster* in this behalf it is sufficiently manifest and appears on record, that the suggestion aforesaid is insufficient in law to preclude him the said Nathaniel from having our writ of consultation: We therefore being willing that justice should be done to the parties aforesaid (as the law requires) signify to you that you may lawfully proceed in the cause aforesaid, and farther do what you shall know to belong to the court of honour, our said prohibition to the contrary thereof before directed in any wise notwithstanding. Witness, &c.

Diminution.

Diminution.

CHARLES, &c. To our trusty and beloved *Orlando B. Knt. and Bart.* our chief justice of the Bench, greeting: Whereas we have lately by the complaint of *Thomas A.* understood, that in the record and proceedings, and also in the rendition of the judgment of a plea which was in our court before you and your companions, then our justices of the Bench, by our writ, between *Francis B. the younger*, plaintiff, and the said *Thomas A.* in a plea of breach of covenant, a manifest error hath happened, to the great damage of him the said *Thomas*, and we have caused those record and proceedings to be brought before us to correct such error; and the said *Thomas A.* appearing in our court before us hath said, that the record aforesaid before us sent is diminished, because the record of the continuance of the proceedings in the plea aforesaid on the original writ between the parties aforesaid in the plea aforesaid, from the Octave of the Purification of the Blessed *Mary* in the 15th year of our reign until *Easter* term, to wit, from the day of *Easter* in one month in the 15th year of our reign aforesaid, and of the declaration of the said *Francis B. the younger* aforesaid, exhibited into our same court of the Bench in the same *Easter* term against the said *Thomas A.* in the plea aforesaid, and of the imparlance to the declaration of the said *Francis B. the younger* to the said *Thomas A.* thereon granted, yet remaining on record in our same court of the Bench of the several terms aforesaid respectively in your custody, are not yet certified to us; and the same *Thomas A.* hath prayed our writ to be directed to you, to certify more fully the truth thereof; and it was granted him: Therefore we command you, that you search the rolls and records remaining in your custody of the several terms aforesaid; and if it be so, then the record of the continuances of the proceedings on the original writ aforesaid between the parties aforesaid in the plea aforesaid, from the Octave of the Purification of the Blessed *Mary* in the 15th year of our reign aforesaid until *Easter* term, to wit, from the day of *Easter* in one month in the same term in the 15th year of our reign aforesaid, and also the record of the declaration of the said *Francis B. the younger* aforesaid, exhibited into our same court of the Bench in the same *Easter* term against the said *Thomas A.* in the plea aforesaid, and of the imparlance to that declaration to the said *Thomas A.* granted, to us without delay wheresoever we shall then be in *England* you certify, together with this writ. Witness *J. Holt, &c.*

Distringas.

*A distringas
in debt in
Middlesex.*

WILLIAM, *Esc.* To the sheriff of *Middlesex*, greeting: We command you, that you distrain *John G. of Westminster, Gent.* (*so name all the jury returned in the panel*) the jurors summoned in our court before us, between *Samuel D. Gent.* plaintiff, and *John A. Esq.* defendant, by all their lands and chattels in your bailiwick, so that neither they, nor any one by them, lay hands on them until you shall have other command from us for it; and that of the issues of the same you answer unto us, so that you may have their bodies before us at *Westminster* on *Tuesday* next after three weeks of the *Holy Trinity*, or before our trusty and well beloved *John Holt, Knt.* our chief justice assigned to hold pleas in our court before us, if he shall first come on [if the cause be tried in term, this is the day after the trial; if out of term, then it must be the first day of the next term] at *Westminster* in the great hall of pleas there, by the form of the statute, *Esc.* to make a certain jury of the country between the parties aforesaid in a plea of debt, and to hear their judgment for their former defaults; And have there then the names of that jury; and this writ. Witness *J. Holt, Knt.* at *Westminster* day of in the 11th year of our reign.

13 E. 1. c. 30.
12 E. 2. c. 4.
18 El. c. 12.
12 Geo. c. 31.

If in *London*, then, if he shall first come on, *Esc.* at *Guildhall, London*, by the form of the statute, *Esc.*

If the record be a *remanet*, then the *jurata* and *distringas* must be alter'd accordingly.

If at the assises [so that you may have their bodies before us at *Westminster* on] the first day of the subsequent term, or before our justices assigned to take assises in your county, if they shall first come on [the day of the assises] at *L.* in your county aforesaid, by the form of the statute, *Esc.*

If in replevin, in a plea of taking and unjust detention of cattle, or of goods and chattels.

*A distringas
on an issue in
a writ of error
to try if the
plaintiff died
before the
trial of the
issue.*

ANNE, *Esc.* To the sheriff of *Suffex*, greeting: We command you, that you distrain *Stephen B. of Lindfield, Gent. Esc.* (*so recite all the jury returned in the panel to*) and that of the issues of the same you answer unto us, so that you may have their bodies before us at *Westminster* on *Monday* next after three weeks of *St. Michael*, or before our justices assigned to take assises in your county, if they shall first come on *Monday* 17th day of *July* at *East Grinstead* in your county aforesaid, by the form of the statute, *Esc.* to recognize on their oath, whether the said *John W.* died before the trial of the issue aforesaid in the record aforesaid between the parties aforesaid joined, as the said *John O.* and *Nathaniel R.* have alledged, or not, and to hear their judgment for their former defaults; And have there the names of the jury, and this writ. Witness *T. Parker, Knt.* at *Westminster* 28th day of *June* in the 9th year of our reign.

William the Third, by the grace of God, of England, Scotland, France and Ireland *A. distringas* King, defender of the faith, &c. To the sheriff of *Middlesex*, greeting: We com- to return a writ of *elegit*. mand you, that you distrain William G. Knt. and Joseph S. Knt. late sheriff of your county, by all their lands and chattels in your bailiwick, so that neither they, nor any by them, lay hands on them until you shall have other command from us for it; and that of the issues of the same you answer unto us, so that he may return our writ of *elegit* out of our court before us at *Westminster* prosecuted, and to the same William and Joseph, then sheriff of your county aforesaid, delivered against Milo G. of the parish of *St. Martin in the Fields* in your county, cutler, at the suit of John T. Gent. for 860 l. debt, and 33 s. for damages, returnable before us at *Westminster* on *Wednesday* next after three weeks of the Holy Trinity in the 11th year of our reign, to us in our said court before us at *Westminster* on *Thursday* next after three weeks of *Easter*; and have there then this writ. Witness J. Holt, Knt. at *Westminster* 7th day of *May* in the 13th year of our reign.

Holt. Coleman.

The manucaptors of the within named sheriff, { John Doe,
and
Richard Rot.
Issues 256 l.

The answer of { Robert Beachcroft, Knt.
and
H. Furnese, Knt. } sheriff.

William, &c. To the sheriff of *Suffex*, greeting: We command you, that you have *Habeas cor-* before our justices at *Westminster* from the day of *Easter* in 15 days, or before our *pora jurator* justices assigned to take assises in your county, by the form of the statute thereof pro- in C. B. in vided, if they shall first come on *Friday* the fourth day of *April* at *East Grinstead* in your prohibition. county, the bodies of Thomas S. the younger of *Mounifield* (naming all the jury returned in the panel) jurors summoned in our court before our justices at *Westminster* between Edward B. who as well, &c. plaintiff, and John Dodderidge, clerk, rector of the rectory of the parochial church of *Wharlington* in your county, defendant, in a plea of prohibition to make that jury; And have there this writ. Witness E. Nevill at *Westminster* 12th day of *February* in the 12th year of our reign.

Windbam.

GEORGE, &c. To the sheriff of *Middlesex*, greeting: We command you, that you *Distringas in* distrain A. B. &c. jurors summoned in our court before us between Grace B. widow, *Middlesex in a* surviving executrix of James B. Esq; deceased, plaintiff, and George B. Esq; defendant, by *scire facias in* all their lands and chattels in your bailiwick, so that neither they, nor any by them, lay *debt* hands to them until you shall have other command from us for it; and that of the issues of the same you answer to us, so that you may have their bodies before us at *Westminster* on day next after or before our trusty and beloved John P. Knt. our chief justice assigned to hold pleas in our court before us, if he shall first come on day next after at *Westminster* in the great hall of pleas there, by the form of the statute, &c. to make a certain jury of the country between the parties aforesaid in a plea of debt whereon a *scire facias*, &c. and to hear their judgment for their former defaults; And have there then the names of that jury, and this writ. Witness John Pratt, Knt. at *Westminster* the fourth day of *May* in the 6th year of our reign.

Ventris.

William,

A *distingas* at
the assises in
case.

William, &c. To the sheriff of *Kent*, greeting: We command you, that you distrain *A. B.* &c. jurors summoned in our court before us between *James B.* plaintiff, and *John W.* Gent. defendant, by all their lands and chattels in your bailiwick [unto] to make a certain jury of the country between the parties aforesaid in a plea of trespass on the case, and to hear their judgment for their former defaults; And have there then the names of that jury, and this writ. Witness, &c.

A *distingas* to
return a *lati-*
sat.

William, &c. To the sheriff of *Cambridge*, greeting: We command you, that you distrain *William E.* Esq; late sheriff of your county, by all his lands and chattels in your bailiwick, so that neither he, nor any by him, lay hands to them until you shall have other command from us for it; and that of the issues of the same you answer to us, so that he may have the body of *Thomas B.* by him taken and in our prison under his custody detained, as by his return to us by him formerly sent he hath charged himself before us at *Westminster* on _____ day next after _____ to answer to *Humphry B.* in a plea of trespass, and also to the bill of the said *Humphry* against the said *Thomas D.* for 30*l.* upon promise, according to the custom of our court before us to be exhibited; And have there then this writ. Witness *J. Holt*, &c.

A *distingas*
for a view.

ANNE, &c. To the sheriff of *Suffex*, greeting: We command you, that you distrain *W. A.* of _____ (and so recite the whole panel) jurors summoned in our court before us between the right honourable *Richard* Earl of *Scarborough*, plaintiff, and *Edward S.* defendant, by all their lands and chattels in your bailiwick, so that neither they, nor any person by them, lay hands to them until you shall have other command from us for it; and that of the issues of the same you answer to us, so that you may have their bodies before us at *Westminster* on *Wednesday* next after three weeks of *St. Michael*, or before our justices assigned to take assises in your county, if they shall first come on *Monday* the second day of *September* at *Horsham* in the county aforesaid, by the form of the statute in such case thereof lately made and provided, to make a certain jury of the country between the parties aforesaid in a plea of trespass, and to hear their judgment for their former defaults; and in the mean time, according to the form of the statute in such case lately made and provided, we command you, that you have six of the first twelve jurors, or any greater number of them, to the place in question, on the 20th day of *August* next ensuing, who then shall have a view of the same place in the presence of *J. M.* on the part of the plaintiff, and of *W. F.* on the part of the defendant, appointed by our court before us to shew the place aforesaid to the jurors aforesaid; and how you shall have executed this our command, to us at *Westminster* on the said day, or to our justices at the assises aforesaid, cause to be returned, remitting to us this our writ. Witness *J. Holt*, Knt. at *Westminster* 12th day of *June* in the fifth year of our reign.

Holt. Coleman.

The return.

I do certify to the justices of the Lady the Queen, that on the 20th day of *August* within written, I caused *Thomas M.* Knt. *R. P.* Esq; *R. O.* Esq; *W. P.* Esq; *J. M.* Esq; and *T. E.* Esq; being six of the first jurors within named, to have a view of the place in question in the presence of *J. M.* on the part of the plaintiff, and of *W. F.* on the part of the defendant, appointed by the court within written to shew the place aforesaid to the jurors aforesaid, according to the form of the statute in such case thereof lately made and provided, as I am within commanded. The residue of the execution of this writ appears in a certain panel to this writ annexed.

J. Shelly, Esq; sheriff.

ANNE,

ANNE, &c. To the sheriff of *Northumberland*, greeting: We command you, that In an appeal you distrain, &c. jurors summoned in our court before us at *Westminster* between of murder. E. W. widow, who was the wife of *Henry W.* late of, &c. appellant, and *W. C.* late of, &c. by all their lands and chattels in your bailiwick, so that neither they, nor any person by them, lay hands on them until you shall have other command from us for it; and that of the issues of the same you answer to us, so that you may have their bodies before us from the day of *St. Michael* in three weeks, or before our justices assigned to take assises in your county, if they shall first come on *Monday* 18th day of *August* at the castle of *Newcastle upon Tyne* in your county, by the form of the statute in such case lately made and 13 E. i. c. 30. provided, to recognize on their oath, whether the said *William* is guilty of the death of 12 E. 2. c. 4. the said *Henry W.* the late husband of the said *Elizabeth*, whereof the same *Elizabeth* him the said *W. C.* in our court before us hath appealed, or not, and to hear thereof their judgment for their former default; And have there then this writ. Witness *T. Parker*, Knt. at *Westminster* 7th day of *July* in the 11th year of our reign.

William, &c. To the sheriff of *Suffex*, greeting: We command you, that you di- To return a strain *H. Y.* Esq; late sheriff of your county, by all his lands and chattels, so latitat. that neither he, nor any person by him, lay hands on them until you shall have other command from us for it; and that of the issues of the same you answer to us, so that he return our writ of *latitat* out of our court before us at *Westminster* prosecuted; and to the same *Henry*, then sheriff of your county aforesaid, delivered against *R. L.* at the suit of *E. S.* in a plea of trespass, and also of the bill of him the said *Edward* against him the said *R.* for 45 *l.* upon promise, according to the custom of our court aforesaid before us to be exhibited, returnable before us at *Westminster* on day next after to us in our said court before us at *Westminster* on day next after And have there then this writ. Witness *J. Holt*, Knt. at *Westminster* 28th day of *November* in the fourth year of our reign.

William, &c. To the sheriff of *Middlesex*, greeting: We command you, that you To answer in distrain *John* Earl of *Bath*, by all his lands and chattels in your bailiwick, so case against that neither he, nor any person by him, lay hands on them until you shall have other an Earl by command from us for it; and that of the issues of the same you answer to us, so original. that he be before us on wheresoever we shall then be in *England*, to answer to *William H.* executor of the last will of *William H.* in a plea, why whereas the said Earl on the first day of *May* in the 10th year of our reign at *Westminster* in your county was indebted to the said *William* in his life-time in 467 *l.* 1 *s.* of lawful money of *England*, for sundry goods and merchandizes by him the said *William* the testator to the same Earl, and at the special instance and request of him the said Earl before there sold and delivered; and the said Earl being so therein indebted, in consideration thereof assumed upon himself, and to the same *William* the testator then and there faithfully promised, that he the said Earl the said 467 *l.* 1 *s.* to the said *William* the testator, when he should be thereto after required, would well and truly pay and satisfy: And whereas also the said *William* the testator afterwards, to wit, the same day and year aforesaid; at *Westminster* aforesaid, at the special instance and request of him the said Earl, had sold and delivered to him the said Earl sundry other goods and merchandizes; the same Earl then and there in consideration thereof assumed upon himself, and to the same *William* the testator then and there faithfully promised, that he the same Earl so much money as he the said *William* the testator therefore reasonably deserved to have, to the same *William* the testator, when he should be thereto after required, would well and truly pay and satisfy: And the same *William* the now plaintiff in

in fact says, that he the same *William* the testator in his life-time therefore reasonably deserved to have of the same Earl another sum of 467 l. 1 s. of like money of *England*; and thereof the said *William* the testator in his life-time afterwards, to wit, the same day and year above said, at *Westminster* afore said in the county afore said, to the same Earl gave notice: Nevertheless the said Earl his several promises and assumptions afore said to the same *William* in his life-time in form afore said made not regarding, the said several sums of money, or any penny thereof, to the said *William* the testator in his life-time, or to the said *William* the now plaintiff, after the death of the said *William* the testator, hath not yet paid, nor him for the same hitherto in any wise satisfied, altho' the same Earl afterwards, to wit, on the first day of *August* in the 10th year above said, at *Westminster* afore said in the county afore said, by the said *William* the testator in his life-time was required to do it: And altho' also the same Earl afterwards, to wit, on the first day of *April* in the 10th year of our reign, at *Westminster* afore said in the county afore said, by him the said *William* the now plaintiff, after the death of the said *William* the testator, was likewise required to do it; but the said Earl those sums to the same *William* the testator in his life-time, or to the said *William* the now plaintiff, after the death of the said *William* the testator, yet to pay, or for the same hitherto in any wise to satisfy hath altogether refused, and yet doth refuse, to the damage of him the said *William* 400 l. and to hear thereof his judgment for his former defaults; And have there this writ. Witness *J. Holt*, Knt. at *Westminster* day of in the year of our reign.

The manucaptors of the within named *John* Earl of *Bath*, } *John* Doe,
and
} *Richard* Roe.
Issues 40 s.

The answer of } *Basil* Firebrace, Knt.
and
} *John* Parsons, Knt. } sheriff.

In prohibition for a trial at the assises. **A**NNE, &c. To the sheriff of *Huntington*, greeting: We command you, that you distrain *Thomas* K. of *Alconbury* (and so name all the jurors in the panel) jurors summoned in our court before us between *Richard* S. Gent. who as well for us as for himself in this behalf prosecutes, plaintiff, and *John* A. clerk, vicar of the vicarage of *Hemingford* Gray in your county, defendant, by all their lands and chattels in your bailiwick, so that neither they, nor any person by them, lay hands on them until you shall have other command from us for it; and that of the issues of the same you answer to us, so that you may have their bodies before us at *Westminster* on day next after or before our justices assigned to take assises in your county, if they shall first come on at the town of *Huntington* in your county, by the form of the statute, &c. to make a certain jury of
13 E. 1. c. 30. the country between the parties afore said in a plea of trespass and contempt, because he
12 E. 2. c. 4. prosecuted in the court christian after our prohibition to him first to the contrary thereof directed and delivered, and to hear thereof their judgment for their former defaults; And have, &c.

For a trial at bar. **W**illiam, &c. To the sheriff of *Worcester*, greeting: We command you, that you distrain *Charles* L. of *Hagley*, Bart. *Thomas* R. of *Rouselench*, Bart. (and so name all the jurors) jurors summoned in our court before us at *Westminster* between *Robert* S. Gent. plaintiff, and *Edward* W. Gent. and *George* H. defendants, by all their lands and chattels in your bailiwick, so that neither they, nor any person by them, lay hands on them until you shall have other command from us for it; and that of the issues of the same you answer to us, so that you may have their bodies before us at *Westminster* on *Wednesday* next after to make a certain jury of the country between the parties afore said in a plea of trespass on the case, and to hear thereof their judgment for their many defaults; And have there then the names of those jurors, and this writ. Witness *J. Holt*, Knt. at *Westminster* day of in the year of our reign.

Holt. Coleman.

Elegit.

Elegit.

ANNE, &c. To the sheriff of *Middlesex*, greeting: Whereas *Mary D.* spinster, *Elegit* for an administratrix of all and singular the goods and chattels, rights and credits, which administratrix belonged to *Samuel D.* deceased at the time of his death who died intestate, as it is in debt after judgment of the same court hath recovered against *Edward E.* otherwise called *Edward E.* of Exchequer chamber the parish of *St. Andrew, Holborn*, Gent. 200*l.* debt, and also 12*l.* 12*s.* for her damages which she sustained as well by reason of the detention of that debt, as for her costs and charges by her about her suit in that behalf expended, whereof the same *Edward* is convicted, as it appears to us on record, as also 10*l.* which to the same *Mary* in the court of the chamber of our Exchequer at *Westminster* before our justices of the Bench and the barons of our Exchequer of the degree of the coif there, according to the form of the statute lately 27 El. c. 3. made and provided, were adjudged for her damages, costs and charges which she had by reason of the delay of the execution of the judgment aforesaid, on the pretence of the prosecution of our certain writ of error by him the said *Edward* of and upon the judgment aforesaid prosecuted, whereon that judgment was afterwards affirmed, and whereof the same *Edward* is convicted, as by the inspection of the record and proceedings thereof, out of the court of Exchequer chamber aforesaid, before us according to the form of the statute aforesaid remitted, and in our said court before us now remaining in all things affirmed, it likewise appears to us on record: And afterwards the said *Mary* came into our said court before us, and chose to be delivered to her all the goods and chattels of the said *Edward*, saving only his oxen and beasts of his plough, and likewise the one half of all the lands and tenements of the said *Edward* in your bailiwick, to hold to her the goods and chattels aforesaid as her proper goods and chattels, and also to hold the one half aforesaid to her and her assigns as her freehold, according to the form of the statute thereof made and provided, until she shall have thereout fully levied the debt and damages aforesaid: Therefore we command you, that you without delay cause to be delivered to the said *Mary* all the goods and chattels of the said *Edward* in your bailiwick, saving only his oxen and beasts of his plough, and likewise the one half of all the lands and tenements of the said *Edward* in your bailiwick of which the said *Edward*, and any person and persons in trust for the said *Edward*, on *Wednesday* next after 15 days of *Easter* in the 8th year of our reign, on which day the judgment aforesaid was given, or ever after, was or were seised, upon a reasonable price and extent, to hold to her the goods and chattels aforesaid as her proper goods and chattels, and also to hold the one half of the lands and tenements aforesaid as her freehold to her and her assigns, according to the form of the statute aforesaid, until she shall have thereout fully levied the debt and damages aforesaid; and how you shall have executed this our writ send to us at *Westminster* on _____ day next after _____ under your seal and the seals of those by whose oath you shall make that extent and appraisement, together with this writ. Witness *Thomas Parker*, Knt. at *Westminster* 22d day of *May* in the 9th year of our reign. 23 E. 1. c. 13.

ANNE,

Elegit after a scire facias on a judgment in debt in the late reign.

ANNE, &c. To the sheriff of *Carmarthen*, greeting: Whereas *Benjamin B. Gent.* and *Charles H. Gent.* lately in the court of the Lord *William the Third*, late King of *England*, before the late King himself at *Westminster*, by bill, without the writ of the said late King, and by the judgment of the same court recovered against *Rowland G. Knt.* otherwise called *Rowland G.* of the parish of *St. James* in the liberty of *Westminster*, *Knt.* 900 *l.* debt, and also 63 *s.* for their damages which they sustained as well by reason of the detention of that debt, as for their costs and charges by them about their suit in that behalf expended, whereof the same *Rowland* is convicted, as it appears to us on record; and whereof in our court before us at *Westminster* it is considered, that the said *Benjamin B.* and *Charles H.* may have their execution against the said *Rowland* for the debt and damages aforesaid, by the default of him the said *Rowland*: And because the said *Benjamin* and *Charles* have come into our court at *Westminster*, and chose to be delivered to them all the goods and chattels of the said *Rowland*, saving only his oxen and beasts of his plough, and likewise the one half of all the lands and tenements of the said *Rowland*, and of any person or persons in trust for him the said *Rowland* in your bailiwick, to hold the goods and chattels aforesaid as their proper goods and chattels, and also to hold the one half

13 E. 1. c. 18. aforesaid to them and their assigns as their freehold, according to the form of the statute thereof made and provided, until they shall have thereout fully levied the debt and damages aforesaid: Therefore we command you, that without delay you cause to be delivered to the said *Benjamin* and *Charles* all the goods and chattels of the said *Rowland* in your bailiwick, saving only his oxen and beasts of his plough, and also the one half of all the lands and tenements of the said *Rowland* in your bailiwick, of which the said *Rowland* and any person or persons in trust for him the said *Rowland* on day next after in the 12th year of the reign of the Lord *William the Third*, on which day the judgment aforesaid was given, or ever after, was or were seised, upon a reasonable price and extent, to hold to them the goods and chattels aforesaid as their own proper goods and chattels, and also to hold the one half of the lands and tenements aforesaid to them and their assigns, according to the form of the statute aforesaid, until they shall have thereout fully levied the debt and damages aforesaid; and how you shall have executed this our writ send to us at *Westminster* on day next after under your seal and the seal of those by whose oath you shall make that extent and appraisement, together with this writ. Witness *J. Holt*, *Knt.* at *Westminster* 23d day of *October* in the third year of our reign.

Elegit in debt for an administrator de bonis non on a judgment recovered by the intestate.

ANNE, &c. To the sheriff of *York*, greeting: Whereas *W. H.* the younger in the court of the Lord and Lady *William and Mary*, late King and Queen of *England*, &c. before the late King and Queen themselves at *Westminster*, by bill, without the writ of the said late King and Queen, and by the judgment of the same court, had recovered against *Barnabas T. Esq.* otherwise called, &c. 200 *l.* debt, and also 8 *l.* for his damages which he had sustained as well by reason of the detention of that debt, as for his costs and charges by him about his suit in that behalf expended, whereof the said *Barnabas* is convicted, as it appears to us on record: And afterwards the said *William H.* at *London* aforesaid, to wit, in the parish of *St. Mary le Bow* in the ward of *Cheape* died of the debt and damages aforesaid, or any part thereof, unsatisfied; after whose death, to wit, on the 20th day of *December* in the year of the Lord 1694, at *London* aforesaid in the parish and ward aforesaid, administration of all and singular the goods and chattels, rights and credits, which belonged to the said *William* at the time of his death, with the will of the said *William* annexed, was committed to one *Thomas B.* by *George H.* professor of divinity, dean of the cathedral and metropolitan church of *Christ Canterbury*, and the chapter of the same church, to whom all and all manner of jurisdiction spiritual and ecclesiastical which belonged to the archbishop of *Canterbury*, the see being full, the same see then being vacant, is notoriously known to belong; which said *Thomas B.* afterwards, at *London* aforesaid in the parish and ward aforesaid, by due process of law levied of the goods and chattels of the said *Barnabas* 46 *l.* 18 *s.* part of the debt and damages aforesaid, and afterwards there died, not paid or satisfied the residue of the debt and damages aforesaid; after whose death administration of all and singular the goods and chattels, rights and credits, which belonged to the said *William* at the time of his death unadministred by the said *T. B.* with the will of the said *W. H.* annexed, was granted to one *Anne B.* widow, by *Thomas* by divine providence archbishop of *Canterbury*, primate and metropolitan of all *England*, at *London* aforesaid in the parish and ward aforesaid, and the said residue of the debt and damages aforesaid to the same *A.* is yet unpaid, whereof the same *B.* is convicted, as it appears to us on record; and whereof in our same court before us at *Westminster* it is considered, that the said *A.* may have her execution

Administration with the will annexed granted to T. B. by the dean, &c. Sede vacante.

Who levied part and died.

Administration de bonis non granted to A. B. who revived the judgment by scire facias.

execution against the said *Barnabas* for the residue of the debt and damages aforesaid by the default of him the said *Barnabas*, &c. And afterwards the said *Anne* came into our court before us at *Westminster*, and chose to be deliver'd to her all the goods and chattels of the said *Barnabas*, saving only his oxen and beasts of his plough, and also the one half of all the lands and tenements of the said *Barnabas* in your bailiwick, to hold to her the goods and chattels aforesaid as her proper goods and chattels, and also to hold the one half aforesaid to her and her assigns as her freehold, according to the statute thereof lately made and provided, ^{13 E. 1. c. 18.} until she shall have thereout fully levied 161 l. 2 s. the residue of the debt and damages aforesaid: Therefore we command you that you, without delay, cause to be delivered to the said *Anne* all the goods and chattels of the said *Barnabas* in your bailiwick, saving only his oxen and beasts of his plough, and also the one half of all the lands and tenements of the said *Barnabas* in your bailiwick, whereof the said *Barnabas*, and any person and persons in trust for him the said *Barnabas*, on day next after in the 6th year of the reign of the Lord and Lady *William and Mary*, late King and Queen of *England*, on which day the judgment aforesaid was given or ever after was or were seised upon a reasonable price and extent, to hold to her the goods and chattels aforesaid as her proper goods and chattels, and also to hold the one half of the lands and tenements aforesaid as her freehold to her and her assigns, according to the form of the statute aforesaid until she shall have thereout fully levied the said 161 l. 2 s. the residue of the debt and damages aforesaid; And how you shall have executed this our writ to us at *Westminster*, on day next after certify under your seal and the seals of those by whose oath you shall make that extent and appraisement, together with this writ. Witness *J. Holt*, Knt. at *Westminster*, &c.

WILLIAM the Third, by the grace of God, of *England, Scotland, France and Ireland* Elected in debt King, defender of the faith, &c. To the sheriff of *Stafford*, greeting: Whereas ^{after judg-} *George B.* lately in the court of the Lord *Charles* the Second, late King of *England*, before ^{ment in a te-} the late King himself at *Westminster*, by bill, without the writ of the same late King, and ^{statum scire} by the judgment of the same court, recovered against *W. H. Gent.* otherwise called *William* ^{facias against} *H. of Wednesbury* in the county of *Stafford*, Gent. 160 l. debt, and also 50 s. for his damages ^{the tertenant.} which he sustained, as well by reason of the detention of that debt, as for his costs and charges by him about his suit in that behalf expended, whereof the same *William* is convicted, as it appears to us on record, and the said *William H.* after the judgment aforesaid, in form aforesaid recovered, died; and execution of the judgment aforesaid yet remains to be made, as ^{Death of the} we have by the suggestion of the said *George* in our court before us understood: Whereupon ^{defendant.} the same *George* hath besought us to grant him his proper remedy in this behalf; and because we are willing that those things which are lawfully transacted in our said court should be carried into due execution, we lately commanded our sheriffs of the city of *Coventry* that they should, by good and lawful men of their bailiwick, give notice to the tenants ^{Scire facias.} of all the lands and tenements in their bailiwick whereof the said *William*, on day next after in *Michaelmas* term in the 21st year of the reign of the said late Lord King *Charles* the Second, on which day the judgment aforesaid was given or ever after was seised, that they should be before us at *Westminster*, on day next after last past, to shew if they had or could say any thing why the debt and damages aforesaid ought not to be levied on those lands and tenements and paid to the said *George B.* according to the force, form and effect of the recovery aforesaid, if they should think fit, and farther to do and receive what our same court before us should then and there consider concerning them in this behalf; and our said sheriffs of our city of *Coventry* on that day returned to us that there are ^{The return.} not nor is any tenants or tenant of any lands or tenements in their bailiwick whereof the said *William* was seised on day next after in *Michaelmas* term in the 21st year of the reign of the Lord *Charles* the Second, late King of *England*, &c. or ever after, to whom they could give notice; whereupon, on the behalf of the said *George B.* in our court before us it was sufficiently testified, that there are several tenants of sundry lands and tenements which were the lands and tenements of the said *W. H.* deceased, at the time of the rendition of the judgment aforesaid, and after, in your county to whom you may give notice; whereupon we ^{Testatum to} commanded you, that by good and lawful men of your bailiwick you should give notice to the ^{the sheriff of} tenants of all the lands and tenements which were the lands and tenements of the said *W. H.* deceased, at the said time of the rendition of the judgment aforesaid, or ever after, that they should be before us at *Westminster*, on *Monday* next after the *Octave* of *St. Hillary* last past, to shew if they had or could say any thing why the debt and damages aforesaid ought not to be levied on those lands and tenements, and paid to the said *George* according to the force, form and effect of the recovery aforesaid if they thought fit, and farther to do and receive what our same court before us should then and there consider concerning them in this behalf, and that ^{you}

The sheriff re-
turns a *scire*
faci to M. H.
tenant of se-
veral lands.

you should have then there the names of those by whom you should give them notice, and that writ: And you our sheriff of *Stafford* on that day returned to us, that by virtue of the writ aforesaid to you directed, you had by R. L. and J. T. good and lawful men of your bailiwick, given notice to *Mary H.* widow, tenant of one messuage, two barns, &c. with the appurtenances in the parish of *Wednesbury* in your bailiwick, which were the messuages, lands and tenements of the said *William H.* in his life-time at the time of the rendition of the judgment aforesaid, to wit, on _____ day next after _____ in *Michaelmas* term in the 21st year of the reign of the said late Lord King *Charles* the Second, whereof the said *William* then and afterwards was seised in his demesne as of fee, to be before us at the day and place aforesaid, to shew if she had or could say any thing, why the said *George* ought not to have his execution against her for the debt and damages aforesaid, to be levied on those lands and tenements, according to the force, form and effect of the recovery aforesaid, and farther to do and receive as the writ aforesaid commanded and required; and you farther certified, that there were not nor was any other tenants or tenant of any other lands or tenements in your county which were the lands and tenements of the said *W. H.* at the said time of the rendition of the judgment aforesaid, or ever after in your bailiwick, to whom you could give notice, as by that writ you was commanded; and the said *Mary H.* altho' solemnly called did not come, but made default; wherefore in our court before us it is considered, that the said *George B.* may have his execution against the said *Mary* for the debt and damages aforesaid, to be levied on the lands and tenements aforesaid, according to the force, form and effect of the recovery aforesaid: And because the said *George*, according to the form of the statute in such case made and provided, hath come into our court before us at *Westminster*, and chose to be delivered to him one half of all the lands and tenements aforesaid, to hold to him and his assigns as his freehold, according to the form of the statute aforesaid, until he shall have thereout fully levied the debt and damages aforesaid: Therefore we command you, that you cause to be delivered one half of all the lands and tenements aforesaid with the appurtenances to the same *George*, upon a reasonable price and extent, to hold to him and his assigns as his freehold, according to the form of the statute aforesaid, until he shall have thereout fully levied the debt and damages aforesaid; and how you shall have executed this our precept return to us at *Westminster* on _____ day next after _____ under your seal and the seal of those by whose oath you shall make that extent and appraisement, together with this writ. Witness J. Holt, Knt. at *Westminster* 12th day of *February* in the 11th year of our reign.

Judgment by
default.

An *elegit*
prayed.

13 E. 1. c. 18.

The execution of this writ appears in a certain schedule to this writ annexed.

The answer of *Walter Landor*, Esq; sheriff.

The inquisition
thereon
returned.

Stafford, to wit. AN inquisition indented taken at *Wolverhampton* in the county aforesaid on the 13th day of *May* in the 11th year of the reign of the Lord *William* the Third, now King of *England*, &c. before me *W. L.* Esq; sheriff of the county of *Stafford* aforesaid, by virtue of the writ of the Lord the King to me directed, and to this inquisition annexed, by the oath of *G. U. M. B. W. N.* &c. good and lawful men of my bailiwick, who being charged and sworn on their oath aforesaid say, that *W. H.* Gent. in the said writ annexed named, on the day of the rendition of the judgment in the said writ mentioned, to wit, on *Saturday* next after three weeks of *St. Michael* in *Michaelmas* term in the 21st year of the reign of the Lord *Charles* the Second, late King of *England*, &c. being the day of the rendition of the judgment in the said writ annexed mentioned, was seised in his demesne as of fee of and in one messuage with the appurtenances, situate, lying and being in *Wednesbury* in the county of *Stafford* aforesaid, of the clear yearly value in all issues, besides reprises, of 60 s. now or late in the tenure or occupation of *Thomas T.* Esq; or his assigns, and also of and in one close of pasture called *Jenning's Close*, containing by estimation two acres with the appurtenances, situate, lying and being in *Wednesbury* in the county aforesaid, of the clear yearly value in all issues, besides reprises, of 30 s. now or late in the tenure or occupation of the said *Thomas T.* or his assigns, and also of and in, &c. (so all the particulars to) And the jurors aforesaid on their oath aforesaid farther say, that the said messuage with the appurtenances in *Wednesbury* aforesaid, the said close called *Jenning's Close*, containing by estimation two acres of pasture, and the said two closes, &c. are a true and equal half of all and singular the lands, tenements and hereditaments whatsoever in the county of *Stafford* aforesaid, of the said *William H.* Gent. in the said writ named; which said half I the said sheriff on the day of the caption of this inquisition caused to be delivered to the said *George B.* in the said writ named, at the reasonable price and extent aforesaid, to hold to him and his assigns as his freehold, according to the form of the

the statute thereof lately made and provided, until he shall have thereout fully levied the debt and damages aforesaid in the said writ specified, as the writ aforesaid commands and requires: And the jurors aforesaid on their oath aforesaid farther say, that the said *William H. Gent.* in the writ aforesaid named at the time of the rendition of the judgment aforesaid in the said writ specified, or ever after, had no other or more lands or tenements in the county aforesaid. In witness whereof as well I the said sheriff as the jurors aforesaid have to this inquisition severally set our seals the day, year and place above said.

Walter Landor, Esq, sheriff.

ANNE, &c. To the sheriff of *Kent*, greeting: Whereas *Charles P. Gent.* lately in the *Elegit* in debt court of the Lord *William the Third*, late King of *England*, before the late King after a *scire facias* himself at *Westminster*, by bill, without the writ of the same late King, and by the judgment of the same court recovered against *Jeffery B. of Grays-Inn* in the county of *Middlesex*, otherwise called *Jeffery B.* of *Grays-Inn* in the county aforesaid, Esq; 4000 *l.* and also 4 *l.* for his damages which he had sustained as well by reason of the detention of that debt, as for his costs and charges by him about his suit in that behalf expended, whereof the same *Jeffery B.* is convicted, as it appears to us on record; and whereof in our court before us at *Westminster* it is considered, that the said *Charles* may have his execution against the said *Jeffery* for the debt and damages aforesaid, by the default of him the said *Jeffery*, &c. And because the said *Charles* hath come into our said court, and chose to be delivered to him all the goods and chattels of the said *Jeffery*, saving only his oxen and beasts of his plough, and likewise the one half of all the lands and tenements of the said *Jeffery* in your bailiwick, to hold to him the goods and chattels aforesaid as his own goods and chattels, and also to hold the one half aforesaid to him and his assigns as his freehold, according to the form of 13 E. 1. c. 18. the statute thereof lately made and provided, until he shall have thereout fully levied the debt and damages aforesaid: Therefore we command you, that you without delay cause to be delivered to the said *Charles* all the goods and chattels of the said *Jeffery* in your bailiwick, saving only his oxen and beasts of his plough, and also the one half of all the lands and tenements of the said *Jeffery* in your bailiwick, whereof the said *Jeffery*, and any person and persons in trust for him the said *Jeffery*, on *Thursday* next after the Octave of *St. Hillary* in *Hillary* term in the 10th year of the reign of the said Lord *William the Third*, late King of *England*, &c. On which day the judgment aforesaid was given, or ever after, was or were seized, upon a reasonable price and extent, to hold to him the goods and chattels aforesaid as his own goods and chattels, and also to hold the one half of the lands and tenements aforesaid to him and his assigns as his freehold, according to the form of the statute aforesaid, until he shall have thereout fully levied the debt and damages aforesaid; and how you shall have executed this our writ send to us at *Westminster* on day next after under your seal and the seals of those by whose oath you shall make that extent and appraisement, together with this writ. Witness *J. Holt*, Knt. &c.

WILLIAM, &c. To the sheriff of *Middlesex*, greeting: Whereas lately in our court before us at *Westminster* it was considered, that *Samuel H.* should have his execution judgment on a against *Nathaniel F. of, &c.* and *Daniel N. of, &c.* the bail of *John G.* for 269 *l.* 2 *s.* recognisance which to the same *Samuel* lately in our said court before us at *Westminster* were adjudged, on a writ of error in the according to the form and effect of a certain recognisance by them the said *Nathaniel* and Exchequer chamber. *Daniel* for the said *John G.* acknowledged in our court before *J. H. Knt.* our chief justice *chamber.* assigned to hold pleas in our court before us at his chambers situate in *Serjeants-Inn* in *Chancery-lane*, *London*, upon our certain writ of error, returnable in our court before our justices of the Common Bench and the barons of our Exchequer of the degree of the coif into the chamber of our Exchequer, as by the record thereof in our said court before us at *Westminster* remaining manifestly appears: And because the said *Samuel* hath come into our court before us at *Westminster*, and chose to be delivered to him all the goods and chattels of the said *Nathaniel* and *Daniel*, saving only their oxen and beasts of their plough, and also the one half of all the lands and tenements of the said *Nathaniel* and *Daniel* in your bailiwick, to hold to him the goods and chattels aforesaid as his proper goods and chattels, and also to hold the one half aforesaid as his freehold to him and his assigns, according to the form of the statute thereof lately made and provided, until he shall have thereout fully levied the said 269 *l.* 2 *s.* Therefore we command you, that without delay you cause to be delivered to the said *Samuel* all the goods and chattels of the said *N.* and *D.* in your bailiwick, saving only their oxen and beasts of their plough, and also the one half of all the lands and tenements of the said *N.* and *D.* in your bailiwick, whereof the said *N.* and *D.* on 13 E. 1. c. 18.

on day next after last past, on which day the judgment aforesaid was given, or ever after, were seised, upon a reasonable price and extent, to hold to him the goods and chattels aforesaid as his goods and chattels, and also to hold the one half of the lands and tenements aforesaid as his freehold to him and his assigns, according to the form of the statute aforesaid, until he shall have thereout fully levied the debt and damages aforesaid; and how you shall have executed this our writ certify to us at *Westminster* on day next after under your seal and the seals of those by whose oath you shall make that extent and appraisement, and this writ. Witness, &c.

Elegit on a judgment in debt in C. B.

13 E. 1. c. 18. **W**illiam, &c. To the sheriff of *North'ton*, greeting: Whereas lately in our court before our justices at *Westminster* it was considered, that *S. M.* should have execution against *Edward Lord G.* as well for a certain debt of 5000 *l.* which the same *Samuel* in the court of the Lord *James* the Second, late King of *England*, &c. before the justices of the said late King at *Westminster* had recovered against him, as for 40 *s.* which to the same *Samuel* in the same court of the said late King were adjudged for his damages which he had as well by reason of the detention of that debt, as for his costs and charges by him about his suit in that behalf expended, whereof he is convicted, by the default of him the said *Edward Lord G.* And the same *Samuel* afterwards came into our court before our justices at *Westminster*, and by the statute thereof made and provided, chose to be delivered to him all the goods and chattels of the said *Lord G.* saving only his oxen and beasts of his plough, and also the one half of all his lands and tenements in your bailiwick, to hold to him the goods and chattels aforesaid as his own proper goods and chattels, and also to hold the one half aforesaid as his freehold to him and his assigns, according to the form of the statute aforesaid, until he shall have thereout fully levied the debt and damages aforesaid: And therefore we command you, that you without delay cause to be delivered to the said *Samuel*, upon a reasonable price and extent, all the goods and chattels of the said *Lord G.* saving only his oxen and beasts of his plough, and also the one half of all his lands and tenements in your bailiwick, whereof the said *Lord G.* from the day of *Easter* in 15 days in the first year of the reign of the said late King, on which day the judgment aforesaid was first given against him, or ever after, was seised, to hold to him the goods and chattels aforesaid as his own proper goods and chattels, and also to hold the one half aforesaid as his freehold to him and his assigns, according to the form of the statute aforesaid, until he shall have thereout levied the debt and damages aforesaid; and how you shall have executed this our writ certify to our justices at *Westminster* from the day of *St. Martin* in 15 days; And have there this writ. Witness *G. Treby*, Knt. at *Westminster* 23d day of *October* in the 7th year of our reign.

The inquisition thereon.

North'ton, to wit. **A**N inquisition indented taken at the town of *North'ton* in the county aforesaid on the 11th day of *November* in the 7th year of the reign of the Lord *William* the Third, by the grace of God, of *England*, *Scotland*, *France* and *Ireland* King, defender of the faith, &c. before me *H. F. Esq.* sheriff of the county aforesaid, by virtue of the writ of the said *Lord* the King to me directed, and to this inquisition annexed, by the oath of *W. H. Gent.* *H. O. W. P.* *J. S. E. C.* *N. R.* *J. B. F. G.* *A. M. T. Y.* *J. P.* and *V. R.* good and lawful men of the county aforesaid, who being sworn and charged on their oath say, that *Edward Lord Griffin* in the writ aforesaid named at the time of the rendition of the judgment in the same writ specified, to wit, from the day of *Easter* in 15 days in the first year of the reign of the Lord *James* the Second, late King of *England*, &c. was seised in his demesne as of fee of and in one messuage, and of and in one close of pasture with the appurtenances, called *the Park*, to the said messuage adjoining, containing by estimation 25 acres, situate, lying and being in *Dingley* in the county aforesaid, and now or late in the tenure or occupation of *James G. Esq.* or his assigns, of the clear yearly value in all issues, besides reprises, of 10 *l.* and of and in one other close of pasture with the appurtenances, called *the Netter Ground*, containing by estimation 250 acres, situate, lying and being in *D.* aforesaid in the county aforesaid, now or late in the tenure or occupation of *T. D.* or his assigns, of the clear yearly value in all issues, besides reprises, 100 *l.* and of and in one meadow with the appurtenances, called *Bocoden Meadow*, containing by estimation 20 acres, lying and being in *D.* aforesaid in the county aforesaid, now or late in the tenure or occupation of *R. B.* or his assigns, of the clear yearly value in all issues, besides reprises, of 8 *l.* and of and in one other close of pasture with the appurtenances, called *the Upper Great-ground*, containing by estimation 120 acres lying and being in *Dingley* aforesaid in the county aforesaid, now or late

in the tenure or occupation of the said *R. B.* or his assigns, of the clear yearly value in all issues, besides reprises, of 50 *l.* &c. And the jurors aforesaid on their oath aforesaid farther say, that the messuage, called the *Castle* in *Bradbrooke* aforesaid, and the said five several closes, called the *Park*, the *Grange*, the *New Close*, the *But Close*, and the *Bush Close* with the appurtenances in the tenure or occupation of the said *John S.* or his assigns, the said closes, called the *Cotter's Close* and *Armitage Close* with the appurtenances in the tenure or occupation of the said *J. S.* or his assigns, the said close, called the *Fartbest Ecclands* with the appurtenances in the tenure or occupation of the said *Richard M.* or his assigns; which said several messuage, closes, lands and tenements aforesaid last mentioned, situate, lying and being in *B.* aforesaid in the county aforesaid, are an equal, full and just half of the premisses aforesaid, by the jurors aforesaid in form aforesaid found; which said half last mentioned, I the said sheriff on the day of the caption of this inquisition caused to be delivered to *Samuel M.* in the writ aforesaid named, to hold to him and his assigns as his freehold, until he shall have thereout fully levied the debt and damages aforesaid in the writ aforesaid mentioned, according to the form of the statute in such case lately made and provided, according to the command of the writ aforesaid: And lastly, the jurors aforesaid on their oath aforesaid say, that the said *Edward Lord Griffin* hath no goods or chattels, nor at the time of the rendition of the judgment aforesaid in the writ aforesaid specified, or ever after hitherto, had any other or more lands or tenements in the county aforesaid to the knowledge of the jurors aforesaid. In witness whereof as well I the said sheriff as the jurors aforesaid to this inquisition have severally put our seals the day, year and place abovesaid.

Afterwards, to wit, on *Wednesday* next after three weeks of the Holy *Trinity* comes the said plaintiff in his proper person, and by the form of the statute in such case made and provided, chooses to be delivered to him all the goods and chattels of the said *Ambrose M.* and *Henry M.* saving only their oxen and beasts of their plough, and also the one half of all the lands and tenements of the said *Ambrose M.* and *Henry M.* in the county of *Surry*, of which the same *Ambrose M.* and *Henry M.* on *Wednesday* next after 15 days of *Easter* the 29th year of the reign of the Lord *Charles* the Second, late King of *England*, &c. on which day the judgment aforesaid in the writ of *scire facias* aforesaid mentioned was given, or ever after were, or either of them, was seised, upon a reasonable price and extent, to hold to him the goods and chattels aforesaid as his own proper goods and chattels, and to hold the one half aforesaid to him and his assigns as his freehold, according to the form of the statute aforesaid, until he shall have thereout fully levied the debt and damages aforesaid; and the same *Ralph* prays the writ of the Lord the now King to be therefore directed to the sheriff of the county of *Surry*; and to him it is granted returnable before the Lord the King at *Westminster* on day next after The same day is given to the said *Ralph* there, &c. On which day before the Lord the King at *Westminster* comes the said *Ralph* in his proper person; and the said sheriff of the county of *Surry* hath not returned the writ aforesaid, nor done any thing therein; and upon this the said *Ralph* prays another writ of the said Lord the King to the same sheriff of the county of *Surry* in form aforesaid to be directed; and to him it is granted, &c. returnable before the said Lord the King at *Westminster* on day next after The same day is given to the said *Ralph* there, &c. On which day before the said Lord the King at *Westminster* comes the said *Ralph* in his proper person; and the said sheriff of the county of *Surry* hath not returned the writ aforesaid, nor done any thing therein; and upon this the said *Ralph* prays another writ of the said Lord the King to the same sheriff of the county of *Surry* in form aforesaid to be directed; and to him it is granted, &c. returnable before the said Lord the King at *Westminster* on day next after The same day is given to the said *Ralph* there, &c. On which day before the said Lord the King at *Westminster* comes the said *Ralph* in his proper person; and the said sheriff of the county of *Surry*, to wit, *W. M. Esq;* by virtue of the said last writ to him directed returns, that the said *Ambrose M.* had no goods or chattels in his bailiwick whereof he could cause to be levied the debt and damages aforesaid, or any penny thereof; and that the said *Henry M.* on day next after in the 29th year of the reign of the Lord *Charles* the Second, late King of *England*, &c. being the day of the rendition of the judgment aforesaid, or ever after, had no lands or tenements in his bailiwick whereof he could cause to be levied the debt and damages aforesaid, or any parcel thereof; and the same sheriff farther returns a certain inquisition taken before him at *Southwark* in the county of *Surry* on the 26th day of *November* in the ninth year of the reign of the Lord *William* the Third, now King of *England*, &c. which said inquisition follows in these words, to wit, An inquisition indented taken, &c.

The return of
an *elegit*
where a lease
is found and
land also.
4 Co. 74.
Cro. El. 584.

AN inquisition indented taken at *S.* in the county aforesaid on the 10th day of *N.* in the year, &c. before me *A. P.* sheriff of the county aforesaid, by virtue of the writ of the said Lord the King to me directed, and to this inquisition annexed, by the oath of *A. B.* &c. good and lawful men of the county aforesaid; who being sworn and charged say on their oath, that *S. S.* in the writ to this inquisition annexed named, on the day of the caption of this inquisition was possessed of the residue of a term of 99 years then to come, if *W. S.* and the said *S. S.* and *B.* his wife, or any of them, should so long live; which said term was granted by one *A. B.* to him the said *S.* his executors, administrators and assigns, for the term aforesaid, by indenture bearing date 10th day of *December* in the first year of the reign of the Lord the now King and of the Lady *Mary* the late Queen of *England*, &c. to hold from the feast of *St. Michael* the Archangel then last past for the term aforesaid (they the said *W. S.* *S. S.* and *B.* at the said time of the caption of this inquisition being in full life) and of and in one messuage with the appurtenances, one close called *B.* one other close called *G.* (and so on) in *Cold Norton* in my county, now or late in the tenure or possession of the said *S. S.* or his tenants, the estate, interest and term of which said *S. S.* in the tenements aforesaid, the jurors aforesaid have on their oath aforesaid appraised to 100 *l.* which said term I the said sheriff have caused to be delivered to the said plaintiff, to hold to him as his own proper goods and chattels, in part of satisfaction of his debt in the writ aforesaid mentioned: And the jurors aforesaid on their oath aforesaid likewise say, that the said *S. S.* at the time of the rendition of the judgment in the same writ mentioned, to wit, from the day of *St. Michael* in three weeks in the fifth year of the reign of the Lord the now King and of the said Lady *Mary* late Queen of *England*, in the writ aforesaid mentioned, was seised in his *Jemesne* as of fee of and in one messuage and one close of pasture thereto adjoining with the appurtenances, containing by estimation 20 acres, situate, lying and being in *A.* aforesaid in the county aforesaid, now or late in the tenure or possession of *A. B.* or his assigns, of the clear yearly value in all issues, besides reprises, 10 *l.* and of and in one other close of pasture with the appurtenances, called *C. B.* containing by estimation 20 acres, situate, lying and being in *A.* aforesaid in the county aforesaid, and now or late in the tenure or (and so on as before) And the jurors aforesaid on their oath aforesaid farther say, that the said messuage and the said close of pasture thereto adjoining, containing by estimation 20 acres, and the said other close, called, &c. are a true and equal half of all and singular the lands, tenements and hereditaments whatsoever of the said defendant in the writ aforesaid named in my county; which said half I the said sheriff on the day of the caption of this inquisition, upon the reasonable price and extent aforesaid, have caused to be delivered to the said plaintiff in the writ aforesaid named, to hold to him and his assigns as his freehold, according to the form of the statute thereof lately made and provided, until he shall have thereout fully levied the residue of the debt and damages aforesaid in the writ aforesaid specified, as the said writ commands and requires: And the jurors aforesaid on their oath aforesaid farther say, that the said *S. S.* in the writ aforesaid named had not on the day of the caption of this inquisition any other or more goods or chattels in my bailiwick, nor at the time of the rendition of the judgment aforesaid in the writ aforesaid mentioned, nor at any time after hitherto, had any other or more lands or tenements in my county. In witness whereof, &c.

13 E. 1. c. 18.

Excom:

Excommunicato capiendo.

ANNE, &c. To the sheriff of *Cambridge*, greeting: *John B.* doctor of laws, of A writ of the court of *Canterbury* of the arches, *London*, official principal lawfully constituted, *excom' cap' ap' ter sentence in the spiritual court.* hath signified to us, that he hath rightfully and lawfully proceeded, and hath read, given and pronounced a certain definitive sentence against one *Samuel W.* of the parish of *St. Buttolph* within the town of *Cambridge*, in a certain cause of appeal in the court of *Canterbury* of the arches aforesaid, which before him in judgment, between the said *Samuel W.* and *John G.* and *William L.* the parties pretended, appellate and querelate, was on each side lately litigated and depended in judgment, for his manifest contumacy in not paying, or causing to be paid, really and with effect to the same *John G.* and *William L.* or their proctor, according to the tenor of the said sentence, and the monition on him judicially made, the sum of 15 *l.* of lawful money of *Great Britain*, for the expences of the suit in the cause aforesaid, within a time long since elapsed, according to the monition preceding before on him judicially made, and his subsequent contumacy hath pronounced contumacious, and for the punishment of such his contumacy hath decreed to be excommunicated, and by the ordinary authority of him the said official he is excommunicated, nor will by ecclesiastical censure be brought to justice: And because the holy church ought not to be without the true royal power in their complaints, we command you, that you take the said *Samuel* by his body, according to the custom of *England*, until he shall satisfy the holy church as well for the contempt as for the injury by him done to her; and how you shall have executed this our writ certify to us from the day of *St. Michael* in three weeks, wheresoever we shall then be in *England*, that we may farther cause to be done in the premises as of right and according to the form of the statute in such case provided shall be to be done; and this by no means omit; And have there this writ. Witness Ourselves at *Westminster* 9th day of *June* in the 13th year of our reign.

Swift.

Extent.

Extent.

An extent on
a capias si
laicus.

JAMES, &c. To the sheriff of *Monmouth*, greeting: Whereas we lately commanded you, that you should take the body of *Richard B.* late of the town of *Monmouth* in your county, Gent. if he was lay, and cause him safely to be kept in our prison until he had fully satisfied *John O.* vintner, executor of the last will and testament of *Ralph O.* late of the city of *Bristol*, vintner, deceased, 500 *l.* which the same *Richard* on the 24th day of *June* in the 25th year of the reign of the Lord *Charles* the Second, late King of *England*, of blessed memory, before *C. G.* Esq; then mayor of the city of *Bristol*, keeper of the greater piece of the seal appointed for the sealing of statutes of merchants within the said city, and *R. A.* Esq; then the clerk appointed to take recognisances of the debts of merchants within the same city, keeper of the lesser piece of the same seal, acknowledged that he owed to the said *Ralph*, and which he ought to have paid on the feast of *All Saints* then next ensuing, and had not yet paid them either to the said *Ralph* in his life-time, or to the said *John* the executor after the death of the said *Ralph*, &c. and how you should execute that writ you should certify to us on the Octave of the Purification of the Blessed *Mary*, wheresoever, &c. And you on that day returned to us, that the said *Richard* is lay, and is not found in your bailiwick; and therefore we command you, that you cause to be delivered to the said *John O.* by a reasonable price and extent, all the goods and chattels of the said *Richard B.* and all the lands and tenements which were the said *Richard B.*'s in your bailiwick, on the day of the recognisance of the debt aforesaid, or ever after, to whose hands soever they are come, unless they be descended to some heir (being under age) by hereditary descent, to hold the goods and chattels aforesaid as his own proper goods and chattels, and the lands and tenements aforesaid as his freehold, to him and his assigns, according to the form of the statute thereof provided, until he shall have thereout levied the debt aforesaid, together with his necessary and reasonable damages and costs, as in labours, suits, delays and expences: Take nevertheless the body of the said *Richard B.* if he shall be found in your bailiwick, and him safely keep in our prison until he shall fully satisfy the said *John O.* the debt aforesaid in form aforesaid; and how you shall execute this our command certify to us from the day of *Easter* in one month, wheresoever, &c. And have there this writ. Witness *Robert W.* Knt. at *Westminster* 13th day of *February* in the 4th year of our reign.

13 E. 1. c. 1.

Fieri facias.

ANNE, &c. To the sheriff of Surry, greeting: Whereas we commanded our A *testatum*
 sheriffs of London, that of the goods and chattels of John C. clerk, otherwise *fieri facias* in
 called John C. of Croydon in the county of Surry, clerk, in their bailiwick, they *debt after a*
 should cause to be made 100 l. debt, which Josias P. lately in our court before us at *scire facias.*
 Westminster recovered against him, and also 36 s. which to the same Josias lately in the same
 court before us at Westminster aforesaid were adjudged for his damages which he sustained as
 well by reason of the detention of that debt, as for his costs and charges by him about his
 suit in that behalf expended, whereof the same John is convicted, as it appears to us on
 record; and whereon in our same court before us at Westminster aforesaid it is considered, *Scire facias.*
 that the said Josias may have his execution against the said John for the debt and damages
 aforesaid, and also 10 l. which to the same Josias in our same court before us, according to
 the form of the statute in such case thereof lately made and provided, were adjudged for
 his costs and charges which he the same Josias sustained by reason of the delay of the exe-
 cution of the judgment aforesaid, whereof the same John is likewise convicted, as it also
 appears to us on record; and that they should have that money before us at Westminster on
 Wednesday next after 15 days of Easter, to be paid to the said Josias P. for the debt, da-
 mages, costs and charges aforesaid; and our said sheriffs of London on that day returned to
 us, that the said John C. hath no goods or chattels in their bailiwick whereof they could
 cause to be made the debt, damages, costs and charges aforesaid, or any part thereof;
 whereupon on the behalf of the said Josias in our court before us it is sufficiently testified, *Testatum.*
 that the said John C. hath sufficient goods and chattels in your bailiwick whereof you may
 cause to be made the debt, damages, costs and charges aforesaid: Therefore we command
 you, that of the goods and chattels of the said John C. in your bailiwick you cause to be
 made the said 100 l. debt, and the said 36 s. for the damages aforesaid, as also the said
 10 l. for the costs and charges aforesaid; and have that money before us at Westminster on
 Saturday next after three weeks of Easter, to be paid to the said Josias for the debt,
 damages, costs and charges aforesaid; And have, &c.

By virtue of this writ to me directed, I certify to the most serene Lady the Queen, *Return, that*
 that the within named John C. is a clerk beneficed in my bailiwick, to wit, vicar of the defendant
 the vicarage of Croydon in my county, which said vicarage of Croydon is a peculiar, and is a clerk
 exempt from the jurisdiction of the Lord archbishop of Canterbury; and that the said *beneficed.*
 John hath not any lay fee in my bailiwick whereof I can cause to be made the debt and
 damages, costs and charges aforesaid, or any part thereof.

Fieri facias on a judgment on a recognisance of bail in C. B. after an affirmance thereof in K. B.

GEORGE, &c. To the sheriff of *Middlesex*, greeting: We command you, that of the lands and chattels of *William T.* of the parish of *St. Margaret Westminster* in your county, Gent. being in your bailiwick, you cause to be made 100 *l.* and of the lands and chattels of *John B.* of *Grange Court, Lincolns-Inn Fields* in your county, Gent. in your bailiwick, you cause to be made 100 *l.* to be paid to *John F.* according to the form and effect of the adjudication of execution on a certain recognisance by them the said *William T.* and *John B.* to the said *John F.* in our court before *Peter K. Knt.* and his companions, our justices of the Bench at *Westminster* acknowledged, as by the record and proceedings of the adjudication of execution thereon, which into our court before us at *Westminster* we lately for certain causes of error in the same to be corrected caused to be brought, appears to us on record, and which in our same court before us, being in all things affirmed, now remaining appears likewise to us on record, and also 12 *l.* which to the same *John F.* in our same court, according to the form of the statute in such case made and provided, were adjudged for his costs and charges which he had sustained by reason of the delay of execution of the judgment aforesaid, on pretence of the prosecution of our said writ of error by the said *William T.* and *John B.* of and upon the premisses aforesaid prosecuted, whereof the said *William T.* and *John B.* are convicted, as it likewise appears to us on record; and have that money before us from the day of _____ wheresoever we shall then be in *England*, to be paid to the said *John F.* for his debt, damages, costs and charges aforesaid; And have there this writ. Witness, &c.

3 H. 7. c. 10.

Testatum fieri facias against the bail on a judgment by default on a *scire facias* in K. B.

GEORGE, &c. To the sheriffs of *London*, greeting: Whereas we lately commanded our sheriff of *Middlesex*, that of the goods and chattels of *William H.* of the *Poultry Counter*, serjeant at mace, and *Nathaniel H.* of the same place, yeoman, the manucaptors of *William P.* in his bailiwick, he should cause to be made 24 *l.* which *John L. Esq;* lately in our court before us at *Westminster* recovered against the said *William P.* for his damages which he sustained as well by reason of the non-performance of a certain promise and assumption to the same *John L.* by the said *William P.* lately made, as for his costs and charges by him about his suit in that behalf expended, whereof the same *William P.* is convicted, as it appears to us on record; and whereof in our same court before us at *Westminster* it is considered, that the said *John L.* may have his execution against the said *William H.* and *Nathaniel H.* for the damages, costs and charges aforesaid, according to the force, form and effect of a certain recognisance by them the said *William H.* and *Nathaniel H.* in our said court before us at *Westminster* for the said *William P.* at the suit of the said *John L.* in the suit aforesaid acknowledged, by the default of them the said *William H.* and *Nathaniel H.* as appears likewise to us on record; and should have that money before us at *Westminster* on _____ day next after _____ to be paid to the said *John L.* for his damages, costs and charges aforesaid: And our said sheriff of *Middlesex* on that day returned to us, that the said *W. H.* and *N. H.* have not, nor hath either of them, any goods or chattels in his bailiwick whereof he can cause to be made the damages aforesaid, or any parcel thereof; whereupon on the behalf of the said *John L.* in our court before us it is sufficiently testified, that the said *William H.* and *Nathaniel H.* have, and each of them hath, sufficient goods and chattels in your bailiwick to satisfy the same *John L.* the damages aforesaid: Therefore we command you, that of the goods and chattels of the said *William H.* and *Nathaniel H.* in your bailiwick, you cause to be made the said 24 *l.* and that you have that money before us at *Westminster* on _____ day next after _____ to be paid to the said *John L.* for the damages aforesaid; And have there then this writ. Witness *J. Pratt*, Knt. at *Westminster* 17th day of *June* in the fourth year of our reign.

Testatum non omittas fieri facias on a judgment in C. B. affirmed in K. B.

GEORGE, &c. To the sheriff of *Berks*, greeting: Whereas we lately commanded our sheriffs of *London*, that of the goods and chattels of *John R.* late of *Windsor* in your county, corn-chandler, in their bailiwick, they should cause to made 150 *l.* 10 *s.* which *E. F.* widow, lately in our court before *Peter K. Knt.* and his companions, our justices of the Bench at *Westminster*, recovered against him for her damages which she sustained as well by reason of the non-performance of a certain promise and assumption to the same *Elizabeth* by the said *John* lately made, as for her costs and charges by her about her suit in that behalf expended, whereof the same *John* is convicted, as by the inspection of the record and proceedings thereof, which we into our court before us lately for certain causes of error caused

caused to be brought, and which in our same court before us, being in all things affirmed, now remaining appears to us on record, as also 14 *l.* which to the same *Elizabeth* in our same court before us, according to the form of the statute in such case made and provided, were adjudged for her damages, costs and charges which she sustained by reason of the delay of execution of the judgment aforesaid, on pretence of the prosecution of our said writ of error, whereof the same *John* is convicted, as it likewise appears to us on record; and that they should have that money before us on last past, wheresoever, &c. to be paid to the said *Elizabeth* for her damages, costs and charges aforesaid; and our said sheriffs of *London* on that day returned to us, that the within named *John R.* had no goods or chattels in their bailiwick whereof they could cause to be made the damages, costs and charges within written, or any parcel thereof; upon which on the behalf of the said *Elizabeth F.* in our court before us it is sufficiently testified, that the said *John R.* hath sufficient goods and chattels in your county whereof you may cause to be made the damages, costs and charges aforesaid: Therefore we command you, that you do not omit on account of any liberty within your county, but that you enter into it, and of the goods and chattels of the said *John R.* in your bailiwick you cause to be made the said 16 *l.* 10 *s.* for the damages, costs and charges aforesaid; And have that money before us at *Westminster* on day next after to be paid to the said *Elizabeth* for her damages, costs and charges aforesaid; And have there this writ. Witness *J. Pratt*, Knt. at *Westminster* 15th day of *April* in the 5th year of our reign.

Ventris.

A *NNE*, by the grace of God, of *England, Scotland, France* and *Ireland* Queen, de- A fieri faciat
fender of the faith, &c. To the sheriff of *Surry*, greeting: We command you, that for costs on a
of the goods and chattels of *Samuel R.* in your bailiwick, you cause to be made 24 *l.* 6 *d.* judgment in a
which *Richard S.* lately in our court before us at *Westminster* recovered against him for his feigned issue
damages which he sustained as well by reason of the non-performance of a certain promise directed by
and assumption to the same *Richard* by the said *Samuel R.* lately made, as for his costs and K. B.
charges by him about his suit in that behalf expended, whereof the same *Samuel* is convicted,
as it appears to us on record; and have that money before us at *Westminster* on
day next after to be paid to the said *Richard* for his damages, costs and charges
aforesaid; And have there then this writ. Witness *J. Holt*, Knt. at *Westminster* 23d day of
October in the fourth year of our reign.

G *EO* *RGE*, &c. To the sheriffs of *London*, greeting: We command you, that of the A fieri faciat
goods and chattels of *Elizabeth S.* late of *London*, widow, in your bailiwick, you on a judgment
cause to be made 26 *l.* which *Sarah E.* lately in our court before *P. K.* Knt. and his com- in a scire fa-
panions, our justices of the Bench at *Westminster*, by our writ, and by the judgment of the cias quare exe-
said court, recovered against her for her damages which she sustained as well by reason of a cutionem non,
certain trespass on the case to the same *Sarah* by the said *Elizabeth* lately done, as for her error.
costs and charges by her about her suit in that behalf expended, whereof the same *Elizabeth*
is convicted, as by the inspection of the record and proceedings thereof, which we lately
caused to be brought into our court before us for certain reasons of error, appears to us on
record; and whereas in our court before us at *Westminster* it is considered, that the said
Sarah may have her execution against the said *Elizabeth* for the damages, costs and charges
aforesaid, by the default of the said *Elizabeth*, as it likewise appears to us on record; and
have that money before us wheresoever, &c. to be paid to the said *Sarah* for her
damages, costs and charges aforesaid, our said writ of error and *superfedeas* thereon obtained
notwithstanding; And have there this writ. Witness, &c.

A *NNE*, &c. To the sheriff of *Lincoln*, greeting: We command you, that of the A fieri faciat
goods and chattels of *Thomas A.* late of *Fulstowe* in your county, Gent. otherwise in debt after
called, &c. in your bailiwick, you cause to be made 50 *l.* debt, which *Francis B.* lately in judgment af-
the court of the Lord *William* the Third, late King of *England*, before *George T.* Knt. and firmed on a
his companions, justices of the same late King of the Bench at *Westminster* recovered against writ of error
him, and also 15 *l.* for his damages which he sustained as well by reason of the detention in the late
of that debt, as for his costs and charges by him about his suit in that behalf ex- reign.
pended, whereof the same *Thomas* is convicted, as by the inspection of the record and pro-
ceedings

ceedings thereof, which the same late King caused to be brought into the same court of the said late King before the late King himself for certain causes of error, and which in the same court of the said late King before the late King himself, being in all things affirmed, now remaining appears to us on record, as also 10 *l.* 10 *s.* which to the same *Francis* in the same court of the said late King before the late King himself, according to the form of the statute in such case made and provided, were adjudged for his damages, costs and charges, which the same *Francis* sustained by reason of the delay of the execution of the judgment aforesaid, on the pretence of the prosecution of the writ of error of the same late Lord the King, by the said *Thomas* of and upon the premisses as aforesaid prosecuted, whereof the same *Thomas* is convicted, as likewise appears to us on record; and have that money before us from the day of the Holy Trinity in three weeks, wherefore, &c. to be paid to the said *Francis* for his debt, damages, costs and charges aforesaid; and have there this writ. Witness, &c.

For the defendant on a nonsuit of the plaintiff at the trial. 23 H. 8. c. 15. 8 El. c. 2. **A**NNE, &c. To the sheriffs of *London*, greeting: We command you, that of the goods and chattels of *William F.* in your bailiwick you cause to be made 16 *l.* 10 *s.* which to *William P.* in our court before us at *Westminster*, according to the form of the statute thereof lately made and provided, were adjudged for his costs and charges about his defence in a certain action of trespass on the case by the said *William F.* against him the said *William P.* in our same court before us brought, in which said action the same *William F.* afterwards was nonsuited, whereof he is convicted, as appears to us on record; and have that money before us at *Westminster* on day next after to be paid to the said *William P.* for his costs and charges aforesaid; And have there then this writ. Witness *J. Holt*, Knt. at *Westminster* 4th day of *February* in the first year of our reign.

On a judgment in debt by confession. **W**illiam, &c. To the sheriff of *Surry*, greeting: We command you, that of the goods and chattels of *Henry B.* in your bailiwick you cause to be made 168 *l.* debt which *Thomas B.* lately in our court before us at *Westminster* recovered against him, and also 63 *s.* which to the same *Thomas B.* in our same court before us at *Westminster* were adjudged for his damages which he sustained as well by reason of the detention of that debt, as for his costs and charges by him about his suit in that behalf expended, whereof the said *Henry B.* is convicted, as it appears to us on record; and have that money before us at *Westminster* on day next after to be paid to the said *Thomas B.* for the debt and damages aforesaid; And have there then this writ. Witness *J. Holt*, Knt. at *Westminster*, &c.

Fieri facias in debt for an executrix against an executrix on a judgment obtained by one testator against the other, revived by *scire facias*. **A**NNE, &c. To the sheriffs of *London*, greeting: We command you, that of the goods and chattels which belonged to *Richard G.* Bart. Viscount *Preston* of the kingdom of *Scotland*, otherwise called *Richard G.* Bart. Viscount *Preston* of the kingdom of *Scotland*, at the time of his death in the hands and custody of the Lady *Anne G.* widow, executrix of the last will and testament of the same *Richard G.* her late husband, to be administered, in your bailiwick, you cause to be made 5200 *l.* debt which *Thomas R.* Esq; now deceased in his life-time lately in the court of the Lord and Lady *William and Mary*, late King and Queen of *England*, before the late King and Queen themselves at *Westminster* recovered against him, and also 13 *l.* 13 *s.* for his damages which he sustained as well by reason of the detention of that debt, as for his costs and charges by him about his suit in that behalf expended, whereof the same *Richard* was convicted, as it appears to us on record; and whereof in our court before us at *Westminster* it is considered, that *M. R.* widow, relict and executrix of the last will and testament of the said *Thomas R.* her late husband deceased, may have execution against the said *Anne G.* for the debt and damages, costs and charges aforesaid, of the goods and chattels which belonged to the said *Richard G.* at the time of his death in the hands of her the said *Anne G.* to be administered, according to the form and effect of the recovery aforesaid; And have that money before us at *Westminster* on day next after to be paid to the said *Mary R.* for the debt and damages aforesaid; And have there then this writ. Witness *J. Holt*, Knt. at *Westminster* 25th day of *June* in the first year of our reign.

Holt. Coleman.

William,

William, &c. To the sheriff of *Somerset*, greeting: Whereas we lately commanded *Testatum fieri* our sheriff of *Middlesex*, that of the goods and chattels of *John T. of Norton Hall* *facias for an* in his county, Gent. otherwise called, &c. in his bailiwick, he should cause to be made 400*l.* *executrix in* debt which *Eliz. J.* widow, executrix of the last will and testament of *Edward J.* her late husband deceased, lately in our court and of the Lady *Mary* our late Queen before us and our said late Queen at *Westminster* recovered against him, and also 23*s.* which to the same *Elizabeth* in our same court were adjudged for her damages which she sustained as well by reason or the detention of that debt, as for her costs and charges by her about her suit in that behalf expended, whereof the same *John T.* is convicted, as it appears to us on record; and whereon in our court before us at *Westminster* it is considered, that the said *Elizabeth* may have her execution against the said *John* for the debt and damages aforesaid; and that he should have that money before us at *Westminster* on _____ day next after _____ to be paid to the said *Elizabeth* for the debt and damages aforesaid: And our said sheriff of *Middlesex* on that day returned to us, that the said *John T.* hath no goods or chattels in his bailiwick whereof he can cause to be made the debt and damages aforesaid, or any part thereof; upon which on the behalf of the said *Elizabeth* in our court before us it is sufficiently testified that the said *John T.* hath sufficient goods and chattels in your bailiwick whereof you may cause to be levied the debt and damages aforesaid: Therefore we command you, that of the goods and chattels of the said *John T.* in your bailiwick you cause to be made the said 400*l.* debt, and 23*s.* for the damages aforesaid; and have that money before us at *Westminster* on _____ day next after _____ to be paid to the said *Elizabeth* for the debt and damages aforesaid; And have there then this writ. Witness, &c.

William, &c. To the sheriff of *Middlesex*, greeting: We command you, that of the *In case.* goods and chattels of *Adrian L.* in your bailiwick you cause to be made 23*l.* which *Richard W.* lately in our court before us at *Westminster* recovered against him for his damages which he sustained as well by reason of the non-performance of certain promises and assumptions to the same *Richard* by the said *Adrian* lately made, as for his costs and charges by him about his suit in that behalf expended, whereof the said *Adrian* is convicted, as it appears to us on record; and have that money before us at *Westminster* on _____ day next after _____ to be paid to the said *Richard* for his damages, costs and charges aforesaid; And have there then this writ. Witness, &c.

William, &c. To the sheriff of *Hereford*, greeting: Whereas we lately commanded *For the residue in debt.* you, that of the goods and chattels of *John P.* otherwise called, &c. in your bailiwick you should cause to be made 240*l.* debt which *John C. Esq;* lately in our court before us at *Westminster* recovered against him, and also 23*s.* for his damages which he sustained as well by reason of the detention of that debt, as for his costs and charges by him about his suit in that behalf expended, whereof he is convicted, as it appears to us on record; and that you should have that money before us at *Westminster* on _____ day next after _____ last past, to be paid to the said *John* for his debt and damages aforesaid: And you on that day returned to us, that you by virtue of that writ to you directed had caused to be made of the goods and chattels of the said *John P.* 50*l.* parcel of the debt and damages aforesaid, which money before us at the day and place aforesaid you had ready, as by that writ you was commanded; and that the said *John* has no other goods or chattels in your bailiwick whereof you can cause to be made the residue of the debt and damages aforesaid, or any part thereof: Therefore we command you, that of the goods and chattels of the said *John* in your bailiwick you cause to be made 191*l.* 3*s.* the residue of the said 241*l.* 3*s.* and have that money before us at *Westminster* on _____ day next after _____ to be paid to the said *J. C.* for the residue of his debt and damages aforesaid; And have there then this writ. Witness, &c.

In assault.

William, &c. To the sheriff of *Sussex*, greeting: We command you, that of the goods and chattels of *Francis T.* in your bailiwick you cause to be made 13 l. 1 s. which *John N.* lately in our court before us at *Westminster* recovered against him for his damages which he sustained as well by reason of a certain trespass and assault by the said *Francis* on him the said *John* lately committed, as for his costs and charges by him about his suit in that behalf expended, whereof the same *Francis* is convicted, as it appears to us on record; and have that money before us at *Westminster* on _____ day next after to be paid to the said *John* for his damages, costs and charges aforesaid; And have there then this writ. Witness, &c.

In case against bail after a scire facias.

William, &c. To the sheriff of *Middlesex*, greeting: We command you, that of the goods and chattels of *John P.* of the parish of *St. James Westminster*, blacksmith, and *Frances S.* of the parish of *St. Margaret Westminster*, widow, the bail of *Henry S.* in your bailiwick, you cause to be made 20 l. 2 s. 1 d. which *T. A.* lately in our court before us at *Westminster* recovered against the said *Henry S.* for his damages which he had sustained as well by reason of the non-performance of certain promises and assumptions by him the said *Henry* to the same *T.* lately made, as for his costs and charges by him about his suit in that behalf expended, whereof the same *Henry* is convicted, as it appears to us on record; and whereof in our same court before us at *Westminster* it is considered, that the said *T.* may have his execution against the said *John P.* and *Frances S.* for the damages, costs and charges aforesaid, according to the force, form and effect of a certain recognisance by them the said *John P.* and *Frances S.* in our said court before us for the said *H. S.* at the suit of the said *T. A.* in the suit aforesaid acknowledged, as it likewise appears to us on record; And have that money before us at *Westminster* on _____ day next after to be paid to the said *T.* for his damages, costs and charges aforesaid; And have there then this writ. Witness, &c.

Fieri facias for an executrix against an administratrix in debt.

William, &c. To the sheriff of *Northampton* greeting: We command you, that of the goods and chattels which belonged to *Stephen M.* the younger deceased, otherwise called, &c. at the time of his death in the hands and custody of *John L.* and *Mary* his wife, administratrix of all and singular the goods and chattels, rights and credits, of the said *Stephen M.* the younger deceased in your bailiwick, you cause to be made 400 l. debt which *Letitia M.* widow, executrix of the last will and testament of *S. M.* the elder her late husband deceased lately in our court before us at *Westminster* recovered against them, and also 8 l. which to the same *Letitia* in the same court were adjudged for her damages which she sustained as well by reason of the detention of that debt, as for her costs and charges by her about her suit in that behalf expended, whereof the same *John L.* and *Mary* his wife are convicted, as it appears to us on record, if they have so much in their hands to be administered; and if they have not so much in their hands to be administered, then the damages aforesaid of the proper goods and chattels of them the said *John L.* and *Mary*; and have that money before us at *Westminster* on _____ day next after to be paid to the said *Letitia M.* for her debt and damages aforesaid; And have there then this writ, &c.

A testatum fieri facias in debt against a clerk of K. B.

William, &c. To the sheriff of *Middlesex*, greeting: Whereas we lately commanded our sheriffs of *London*, that of the goods and chattels of *Thomas R.* Gent. one of the clerks of *Rowland Holt*, Esq; and *R. C.* Gent. our chief clerk assigned to inrol pleas in our court before us, present in the same court in his proper person, otherwise called *Thomas R.* of *Southwark* in the county of *Surry*, Gent. in their bailiwick, they should cause to be made 60 l. debt which *John P.* Gent. lately in our court before us at *Westminster* recovered against him, and also 36 s. which to the same *John* in our same court before us at *Westminster* aforesaid were adjudged for his damages which he sustained as well by reason of the detention of that debt, as for his costs and charges by him about his suit in that behalf expended, whereof the same *Thomas* is convicted, as it appears to us on record; and should have that money before us at *Westminster* on *Wednesday* next after three weeks of the *Holy Trinity*, to be paid to the said *John* for his debt and damages

damages aforefaid: And our faid ſheriffs of *London* on that day returned to us, that the faid *Thomas R.* hath no goods or chattels in their bailiwick whereof they can cauſe to be made the faid debt and damages, or any part thereof; whereupon on the behalf of the faid *John* in our court before us it is ſufficiently teſtified, that the faid *Thomas R.* hath ſufficient goods and chattels in your bailiwick whereof you may cauſe to be made the debt and damages aforefaid: Therefore we command you, that of the goods and chattels of the faid *Thomas R.* in your bailiwick you cauſe to be made the faid 60*l.* debt, and 36*s.* for the damages aforefaid; and that you have that money before us at *Weſtmiſter* on day next after to be paid to the faid *J. P.* for the debt and damages aforefaid; And have there then this writ. Witneſs *J. H. Knt.* at *Weſtmiſter* 9th day of *July* in the 13th year of our reign.

William, &c. To the ſheriff of *N.* greeting: Whereas *John A.* lately in our court, to *Fieri facias* wir, in *Michaelmas* term in the 5th year of our reign, before *G. T. Knt.* and his companions, our juſtices of the Bench at *Weſtmiſter*, by our writ, and by the judgment of the ſame court, recovered againſt *R. C.* late of, &c. and *M.* his wife, *A. W.* late of, &c. and *E. W.* late of, &c. 13*l.* which to the ſame *John* in our ſaid court of Common Bench at *Weſtmiſter* were adjudged for his damages which he had by reaſon of certain treſpaſſes to the ſame *John* by the ſaid *R. M. A.* and *E.* with force and arms; and againſt our peace, at *B.* aforefaid done, whereof they are convicted, as by the inſpection of the record and proceedings thereof which we lately cauſed to be brought into our court before us at *Weſtmiſter* for certain cauſes of error in the ſame to be corrected appears to us on record: And whereas we have for ſundry errors in the record and proceedings aforefaid, and alſo in the rendition of the judgment aforefaid found, reverſed and intirely annulled the judgment aforefaid: It is farther conſidered in our ſame court before us at *Weſtmiſter* aforefaid, that the ſaid *R. M. A.* and *E.* be reſtored to all things which they loſt by reaſon of the judgment aforefaid; and becauſe the ſaid *John A.* ſued out his execution on the judgment aforefaid, and thereupon the ſaid *R. M. A.* and *E.* were taken in execution on the judgment aforefaid, and detained in priſon until they paid unto the ſaid *John* the ſaid 13*l.* Therefore we command you, that of the goods and chattels of the ſaid *John* in your bailiwick you cauſe to be made the ſaid 13*l.* and have that money before us at *Weſtmiſter* from the day of to reſtore to the ſaid *R. M. A.* and *E.* the ſaid 13*l.* to them by our ſaid court before us adjudged upon the reverſal of the judgment aforefaid; And have, &c.

JAMES, &c. To the reverend father in Chriſt *Thomas* Lord Biſhop of *Lincoln*, greeting: A *fieri facias* We command you, that of the eccleſiaſtical goods of *John W.* otherwiſe called *John W.* of eccleſiaſtical goods. maſter of arts, rector of the rectory of *Rand*, otherwiſe *Raund* in your diocēſe, you cauſe to be made 600*l.* debt which *William F.* lately in our court before us at *Weſtmiſter* recovered againſt him, and alſo 40*s.* for his damages which he ſuſtained as well by reaſon of the detention of that debt, as for his coſts and charges by him about his ſuit in that behalf expended, whereof the ſame *John* is convicted, as it appears to us on record; and have that money before us at *Weſtmiſter* on *Wednesday* next after a month of *Eaſter*, to be paid to the ſaid *William* for the debt and damages aforefaid, whereof he is as aforefaid convicted; and whereof our ſheriffs of *London* have returned to us at *Weſtmiſter* on day The return of the ſheriff, that he is a clerk not having a lay fee. next after in *Hilary* term laſt paſt, that the ſaid *John W.* is a clerk benefited in your diocēſe, not having any goods or chattels, nor a lay fee in their bailiwick, whereof they could cauſe to be made the debt and damages aforefaid, or any penny thereof; And have there then this precept. Witneſs *R. W. Knt.* &c.

By virtue of the writ to this ſchedule annexed and to me directed of the goods and chattels of *L. B.* in the writ to this ſchedule annexed named, being a leaſe bearing date the firſt day of *December* in the 28th year of the reign of the Lord *Charles* the Second, late King of *England*, &c. made by *A. B.* to him the ſaid *L. B.* of one meſſuage, called *Friday's Place*, then lately divided into two or more tenements, ſituate in a place called *Friday-ſtreet* in *New Thame* in my county, to hold to the ſaid *L. B.* his executors, administrators and assigns, from the date thereof for and during and unto the full end and term of 99 years from thence next and immediately enſuing and fully to be compleat and ended, if the ſaid *L.* and *A.* then and yet his wife, and *P. B.* the ſon of the ſaid *L. B.* and *A.* his wife, which ſaid *P.* is now dead, or either or any of them, ſhould ſo long live, yielding and paying

A leaſe for years taken on a *fieri facias* for part of the debt.

ing therefore yearly the rent of 12s. 8d. on the feasts of St. *Thomas* the Apostle, the Annunciation of the Blessed Virgin *Mary*, St. *John* the Baptist and St. *Michael* the Archangel, by even and equal portions, I have caused to be made 100*l.* part of the said 200*l.* in the writ to this schedule annexed mentioned, which said money I have ready at the day and place in the writ to this schedule annexed contained, to be paid to the said *R. P.* in the writ to this schedule annexed mentioned, for part of the debt and damages in the same writ mentioned, as I am in the same writ commanded: And I do farther return, that the said *L.* hath no other or more goods or chattels in my bailiwick whereof I can cause to be made the residue of the said 200*l.* or any parcel thereof, as the writ aforesaid commands and requires.

Fieri facias against bail on a recognisance removed out of C. B. by certiorari after judgment affirmed on error in K. B.

William, &c. To the sheriffs of *London*, greeting: We command you, that of the goods and chattels of *Lyonel W.* of, &c. Knt. S. P. of, &c. and *W. B.* of, &c. Esq; the bail of *L. W.* Esq; in your bailiwick, you cause to be made 1800*l.* and have that money before us on wheresoever, &c. to be paid to *Adam B.* according to the form and effect of a certain recognisance by them the said *Lyonel W.* Knt. *Samuel* and *William* to the said *Adam* for the said *Lyonel W.* Esq; upon our certain writ of error in our court before *H. P.* Knt. our chief justice of the Bench, at his chambers situate in *Serjeants-Inn* in *Fleet street*, *London*, acknowledged, as by the record thereof which we lately for certain reasons caused to be brought into our court before us at *Westminster* appears to us on record; and whereon in our said court before us at *Westminster* aforesaid it is considered, that the said *Adam* may have thereof his execution against the said *L. W.* Knt. *Samuel* and *William*, for the said 1800*l.* by the default of them the said *Lyonel*, *Samuel* and *William*, as it appears to us on record; And have there this writ. Witnes, &c.

Fieri facias against the principal in debt after judgment affirmed in K. B. to warrant proceedings against the bail.

William, &c. To the sheriff of *Middlesex* greeting: We command you, that of the goods and chattels of *William S.* late of, &c. you cause to be made as well 20*l.* 9*s.* 8*d.* debt which *T. A.* the younger, Gent. lately in our court before our justices of the Bench at *Westminster* recovered against him, as also 17*l.* for his damages which he sustained as well by reason of the detention of that debt, as for his costs and charges by him about his suit in that behalf expended, whereof the said *William S.* is convicted, as by the inspection of the record and proceedings thereof which we lately caused to be brought into our court before us by virtue of our writ of error by the said *William* of and upon the premisses prosecuted, and which in our court before us in all things affirmed now remaining appears to us on record, as also 9*l.* which to the same *Thomas* in our same court before us, according to the form of the statute in such case made and provided, were adjudged for his damages which he sustained by reason of the delay of the execution of the judgment aforesaid, on the pretence of the prosecution of our said writ of error by the said *William* of and upon the premisses as aforesaid prosecuted, whereof the same *William S.* is likewise convicted, as it appears to us on record; and have that money before us at *Westminster* from the day of wheresoever we shall then be in *England*, to be paid to the said *Thomas* for the debt, damages, costs and charges aforesaid; And have there this writ. Witnes, &c.

In debt after a verdict and writ of error in the Exchequer chamber, and judgment thereon affirmed.

William, &c. To the sheriff of *Middlesex*, greeting: We command you, that of the goods and chattels of *John G.* otherwise called, &c. you cause to be made 120*l.* debt which *Samuel H.* lately in our court before us at *Westminster* recovered against him, and also 10*l.* 11*s.* for his damages which he sustained as well by reason of the detention of that debt, as for his costs and charges by him about his suit in that behalf expended, whereof he is convicted, as it appears to us on record, and also 8*l.* which to the same *Samuel* in our court of Exchequer chamber at *Westminster* before our justices of the Bench and the barons of our Exchequer of the degree of the coif there, according to the form of the statute lately made and provided, were adjudged for his damages, costs and charges which he had by reason of the delay of execution of the judgment aforesaid, by the pretence of the prosecution of our writ of error by him the said *John* of and upon the judgment aforesaid prosecuted, whereof the same *John G.* is convicted, as it appears to us on record; and have that money before us at *Westminster* on, &c. to be paid to the said *Samuel* for the debt, damages, costs and charges aforesaid; And have there then this writ. Witnes, &c.

William, &c. To the sheriff of *Middlesex*, greeting: We command you, that of the *First* *judgment* in goods and chattels of *W. S.* late of, &c. you cause to be made 20 *l.* 9 *s.* 8 *d.* debt which *T. A.* now deceased in his life-time lately in our court before *Edward N. Knt.* and his companions, our justices of the Bench at *Westminster* recovered against him, and also 17 *l.* for his damages which he sustained as well by reason of the detention of that debt, as for his costs and charges by him about his suit in that behalf expended, whereof he is convicted, as by the inspection of the record and proceedings thereof which we lately for certain causes of error caused to be brought into our court before us at *Westminster* appears to us on record, as also 9 *l.* which to the same *Thomas* in our same court before us at *Westminster* aforesaid, according to the form of the statute thereof lately made and provided, were adjudged for his damages, costs and charges which he had by reason of the delay of execution of the judgment aforesaid, by the pretence of the prosecution of our writ of error by the said *W. S.* against him the said *Thomas A.* of and upon the premises prosecuted, upon which said writ of error the judgment aforesaid against the said *W. S.* is in all things affirmed, as it likewise appears to us on record; and whereon in our said court before us at *Westminster* it is considered, that *Judith A.* widow, relict and administratrix of all and singular the goods and chattels, rights and credits, which belonged to the said *Thomas A.* at the time of his death, may have execution against the said *W. S.* for the debt and several damages, costs and charges aforesaid; and have that money before us at *Westminster* from the day, &c. wheresoever we shall then be in *England*, to be paid to the said *Judith* for the debt and several damages, costs and charges aforesaid; And have there this writ. Witness, &c.

William, &c. To the sheriff of *Middlesex*, greeting: We command you, that of the goods and chattels of *R. F.* and *J. W.* the bail of *A. R.* in your bailiwick, you cause to be made 120 *l.* debt which *E. P.* lately in our court before us at *Westminster* recovered against the said *A. R.* and also 26 *s.* which to the same *E. P.* in the same court were adjudged for his damages which he sustained as well by reason of the detention of that debt, as for his costs and charges by him about his suit in that behalf expended, whereof the same *A. R.* is convicted, as it appears to us on record; and whereon in our same court before us at *Westminster* it is considered, that the said *E. P.* may have execution against the said *R. F.* and *J. W.* for the debt and damages aforesaid, according to the force, form and effect of a certain recognisance by them the said *R. F.* and *J. W.* in our said court before us, for the said *A. R.* at the suit of the said *E. P.* in the suit aforesaid acknowledged, as it likewise appears to us on record; and have that money before us at *Westminster* on, &c. to be paid to the said *E. P.* for his debt and damages aforesaid; And have, &c.

Otherwise against the bail in debt in K. B.

William, &c. To the sheriff of *Hereford*, greeting: Whereas *Gilbert H.* in our court held at *Hereford* on *Saturday* the 13th day of *March* in the 8th year of our reign, before *Samuel E. Knt.* one of our justices assigned to hold pleas in our court before us and *Thomas B. Esq;* to the same *Samuel E. &c.* (put in all the titles of the justices) associated by the form of the statute, &c. our justices assigned to take assises in the county aforesaid, by recognisance of assise of *novel disseisin* which the said *Gilbert H.* arraigned before the said justices against *Griffith R. Gent.* and *William D.* master of arts, hath recovered against them the said *G.* and *W.* as well his seisin of the office of register (put in the office as it is in the count) with the appurtenances in our county of *Hereford*, by the view of the recognisors of the assise aforesaid, and also 311 *l.* for his damages which he sustained as well by reason of the disseisin aforesaid, as for his costs and charges by him about his assise aforesaid in that behalf expended, whereof the same *G.* and *W.* are convicted, as by the record and proceedings thereof in our court aforesaid is more fully manifest and appears: Therefore we command you, that you without delay cause the said *Gilbert* to have fully seisin of the office aforesaid so as aforesaid recovered: We likewise command you, that of the goods and chattels of the said *G.* and *W.* in your bailiwick you cause to be made the said 311 *l.* for the damages, costs and charges aforesaid in form aforesaid recovered; and have that money before our justices at the next assise for your county, to be paid to the said *Gilbert* for his damages, costs and charges aforesaid. Witness, &c.

A writ of seisin and first facias in assise of novel disseisin.

Fieri facias
for damages
on a writ of
affise of novel
disseisin.

13 E. 1. c. 30.
12 E. 2. c. 4.

William, &c. To the sheriff of Hereford, greeting: Whereas Gilbert H. in our court held at Hereford in the county of Hereford on Saturday the 14th day of March in the 8th year of our reign, before Samuel E. Knt. one of our justices assigned to hold pleas in our court before us, and Thomas B. Esq; to the said Samuel E. and Thomas B. Knt. another of our justices assigned to hold pleas in our court before us, our justices assigned to take affises in your county, by the form of the statute, &c. this time associated, the presence of the said Thomas R. being not expected, by virtue of our writ of *fi non omnes*, &c. by recognisance of affise of novel disseisin which the said Gilbert H. arraigned before the said justices, against Griffith R. Gent. and W. D. master of arts, recovered against them the said G. and W. his seisin of and in the office of register or registership, &c. with the appurtenances in your county, by view of the recognisors of the affise aforesaid, and also 310 l. which to the same Gilbert in our said court were adjudged for his damages which he sustained as well by reason of the disseisin aforesaid, as for his costs and charges by him about his suit in that behalf expended, whereof the said Griffith and William are convicted, as by the record and proceedings thereof in our court aforesaid is more fully manifest and appears: Therefore we command you, that of the lands and chattels of the said G. and W. in your bailiwick you without delay cause to be made the said 310 l. and have that money before our justices at the next affises to be held for your county aforesaid, to be paid to the said Gilbert H. for his damages aforesaid, remitting then to us this our writ. Witness Samuel E. Knt. and Thomas B. Esq; at the day of in the eighth year of our reign.

Breton.

Fieri facias of
ecclesiastical
goods directed
to the bishop.

William, &c. To the right reverend father in Christ Henry Lord Bishop of London, greeting: We command you, that of the ecclesiastical goods of J. H. clerk, otherwise called J. H. of B. in the county of Huntingdon, clerk in your diocese, you cause to be made 400 l. debt which W. G. lately in our court and of our late Queen before us and our late Queen at Westminster recovered against him, and also 43 s. which to the same W. in our same court before us and our said late Queen at Westminster aforesaid were adjudged for his damages which he sustained as well by reason of the detention of that debt, as for his costs and charges by him about his suit in that behalf expended, whereof the same John is convicted, as it appears to us on record; and whereof in our court before us at Westminster it is considered, that the said W. may have his execution against the said J. for the debt and damages aforesaid; and have that money before us at Westminster on day next after to be paid to the said W. for his debt and damages aforesaid; and whereof our sheriffs of London have returned to us at Westminster on day next after in this same term, that the said J. H. is a clerk beneficed in your diocese, not having any goods or chattels, nor a lay fee in their bailiwick, whereof they could cause to be made the debt and damages aforesaid, or any penny thereof; And have there then this precept. Witness J. Holt, Knt. at Westminster 13th day of February in the 11th year of our reign.

Fieri facias a-
gainst the sur-
vivor in debt
after a *scire*
facias.

William and Mary, &c. To the sheriff of Middlesex greeting: We command you, that of the goods and chattels of Thomas O. Esq; in your bailiwick, you cause to be made 84 l. debt which Frances O. widow, lately in our court before us at Westminster recovered against him and one Hugh H. clerk, which said Hugh afterwards died, and also 71 s. for her damages which she sustained as well by reason of the detention of that debt, as for her costs and charges by her about her suit in that behalf expended, whereof the same Thomas is convicted, as it appears to us on record; and whereof in our said court before us at Westminster it is considered, that the said Frances may have her execution against him the said Thomas O. who survived the said Hugh, by the default of him the said Thomas O. and have that money before us at Westminster on day next after to be paid to the said Frances for her debt and damages aforesaid; And have there then this writ. Witness, &c.

William, &c. To the sheriffs of London, greeting: We command you, that of the goods and chattels of *Thomas N.* in your bailiwick you cause to be made 6*l.* 6*s.* and have that money before us at *Westminster* on day next after to be paid to *John S.* for his costs and charges by him sustained about his defence in a certain action of trespass on the case by him the said *Thomas* against the said *John* in our said court before us at *Westminster* prosecuted, and to the same *John* by our same court, according to the form of the statute thereof lately made and provided adjudged, because the same *Thomas* did not afterwards prosecute that action whereof the same *Thomas* is convicted, as it appears to us on record; And have there then this writ. *Witness, &c.*

ANNE, &c. To the sheriff of *Middlesex*, greeting: We command you, that of the goods and chattels of *John B.* and *John Doe* of London, Gent. the bail of *Samuel A.* Gent. otherwise called, &c. in your bailiwick, you cause to be made 100*l.* for a debt which *Charles S.* lately in the court of the Lord *William* the Third, late King of England, before the late King himself at *Westminster* recovered against the said *Samuel A.* and also 31*s.* which to the same *Charles* in the same court of the said late King were adjudged for his damages which he sustained as well by reason of the detention of that debt, as for his costs and charges by him about his suit in that behalf expended, whereof the same *Samuel* is convicted, as it appears to us on record; and whereof in our same court before us at *Westminster* it is considered, that the said *Charles* may have his execution against the said *John B.* and *J. D.* for the debt and damages aforesaid, according to the force, form and effect of a certain recognisance by them the said *J. B.* and *J. D.* in the said court of the said late King before the late King himself at *Westminster*, for the said *Samuel A.* at the suit of the said *Charles S.* in the suit aforesaid acknowledged, by the default of them the said *J. B.* and *J. D.* as it appears likewise to us on record; and have that money before us at *Westminster* on day next after to be paid to the said *Charles* for his debt and damages aforesaid; And have there then this writ. *Witness, &c.*

ANNE, &c. To the sheriff of *Middlesex*, greeting: We command you, that of the lands and chattels of *Alexander H.* late of *Dowgate-hill*, London, merchant, (one of the bail of *Colen C.*) being in your bailiwick, you cause to be made 240*l.* and of the lands and chattels of *James C.* late of *Fan Court* in *Fancuburgh-street*, London, bookseller, (another of the bail of the said *Colen*) being in your bailiwick, you cause to be made 240*l.* and have that money before us on wherefoever we shall then be in *Great Britain*, to be paid to *Thomas L.* Esq; according to the form and effect of the adjudication of execution on a certain recognisance by them the said *A. H.* and *J. C.* to the said *Thomas L.* for the said *Colen* in our court before *Thomas T.* Knt. and his companions, our justices of the Bench at *Westminster* acknowledged, as by the record and proceedings of the adjudication of execution thereof, which we lately for certain reasons caused to be brought into our court before us, appears to us on record; and whereof in our same court before us at *Westminster* it is considered, that the said *Thomas L.* may have thereof his execution against the said *A.* and *J.* for the said several sums of 240*l.* and 240*l.* in form aforesaid respectively acknowledged to be respectively levied on their lands and chattels, by the default of them the said *A.* and *J.* as it appears likewise to us on record; And have there this writ. *Witness, &c.*

ANNE, &c. To the sheriff of *Middlesex*, greeting: Whereas we commanded our late sheriff of *Middlesex*, that of the goods and chattels which belonged to *James E.* of the city of *York* in the county of *York*, Bart. deceased, otherwise called, &c. in the hands and custody of the Lady *Rebecca E.* widow, executrix of the last will and testament of the same *James E.* her late husband to be administered, in his bailiwick, he should cause to be made 60*l.* for a debt which *Michael B.* executor of the last will and testament of *J. B.* his late brother deceased lately in the court of the Lord *William* the Third, late King of England, &c. before the late King himself at *Westminster* recovered against him, and also 46*s.* for his damages which he sustained as well by reason of the detention of that debt, as for his costs and charges by him about his suit in that behalf expended, whereof the said *James* was convicted, as it appears to us on record; and whereof in our court before us at *Westminster* it is considered, that the said *M. B.* may

may have execution against the said *Rebecca* for his debt and damages, costs and charges aforesaid, of the goods and chattels which belonged to the said *James E.* at the time of his death in the hands of her the said *Rebecca* to be administred, according to the form and effect of the recovery aforesaid; and that he should have that money before us at *Westminster* on *Thursday* next after three weeks of *St. Michael* last past, to be paid to the said *M. B.* for his debt and damages aforesaid: And our said sheriff of *Middlesex* on that day returned to us, that by virtue of the writ aforesaid to him directed, he had caused to be made of the goods and chattels which belonged to the said *James*, in the hands of the said Lady *Rebecca*, 9 *l.* part of the debt and damages aforesaid, which said money he had ready before us at the day and place aforesaid, to be paid to the said *M. B.* in part of the debt and damages aforesaid, as by that writ he was commanded; and that the same *Rebecca* hath not any other goods or chattels which belonged to the said *James*, in the hands of her the said *Rebecca* in his bailiwick, whereof he could cause to be made the residue of the debt and damages aforesaid, or any part thereof: Therefore we command you, that of the goods and chattels which belonged to the said *James E.* in the hands and custody of the said Lady *Rebecca*, to be administred in your bailiwick, you cause to be made 53 *l.* 6 *s.* residue of the said 62 *l.* 6 *s.* and have that money before us at *Westminster* on *Friday* next after the Octave of *St. Hillary*, to be paid to the said *Michael* for the residue of the debt and damages aforesaid; And have there then this writ. Witness, &c.

For the defendant for costs in trespass.
23 H. 8. c. 15.
8 El. c. 2.

ANNE, &c. To the sheriff of *Suffex*, greeting: We command you, that of the goods and chattels of *Richard T. Gent.* in your bailiwick you cause to be made 10 *l.* which to *W. G. Gent.* in our court before us at *Westminster*, according to the form of the statute thereof lately made and provided, were adjudged for his costs and charges about his defence in a certain action of trespass against him the said *W. G.* at the suit of the said *Richard T.* in our same court before us sustained, whereof he is convicted, as it appears to us on record; and have that money before us at *Westminster* on *Tuesday* next after 15 days of *St. Martin*, to be paid to the said *W. G.* for his costs and charges aforesaid; And have there then this writ. Witness, &c.

Fieri facias for an administratrix on a judgment in C. B. affirm'd in K. B. and revived by *scire facias*.

3 H. 7. c. 10.

8 & 9 W. 3. c. 10. § 3.

ANNE, &c. To the sheriffs of *London*, greeting: We command you, that of the goods and chattels of *Simon F.* late of *London*, merchant, otherwise called, &c. in your bailiwick, you cause to be made 1000 *l.* for a debt which *Gilbert P.* now deceased in his life-time lately in our court before *Thomas Lord Trevor*, Baron of *Bromham*, and his companions our justices of the Bench, by our writ, and by the judgment of the same court, recovered against him, and also 15 *l.* 10 *s.* for his damages which he sustained as well by reason of the detention of that debt, as for his costs and charges by him about his suit in that behalf expended, whereof the said *Simon* is convicted, as by the inspection of the record and proceedings thereof, which we lately caused to be brought into our court before us at *Westminster*, by virtue of our certain writ of error by the said *Simon* of and upon the premisses prosecuted, and which in our court before us, being in all things affirmed, now remaining appears to us on record; and likewise 14 *l.* which to the same *Gilbert* in our same court before us at *Westminster*, according to the form of the statute in such case thereof lately made and provided, were adjudged for his damages, costs and charges which he sustained by reason of the delay of execution of the judgment aforesaid, by the pretence of the prosecution of our said writ of error, by the said *Simon* of and upon the premisses as aforesaid prosecuted, and whereof the said *Simon* is likewise convicted, as it appears also to us on record: And whereas the same *Gilbert P.* afterwards, to wit, on the first day of *March* in the 12th year of our reign at *London* aforesaid died intestate, of the debt and damages, costs and charges aforesaid, or any part thereof, unsatisfied; after whose death, to wit, on the 5th day of *March* in the 12th year of our reign above said, at *London* aforesaid, administration of all and singular the goods and chattels, rights and credits, which belonged to the said *Gilbert P.* at the time of his death, by *Thomas* by divine providence archbishop of *Canterbury*, primate and metropolitan of all *England* (to whom the commission of the administration aforesaid of right belonged) to one *Elizabeth P.* widow and relict of the said *Gilbert P.* in due form of law was committed; and whereon in our same court before us at *Westminster* it is considered, that the said *Elizabeth* may have execution against the said *Simon* for the debt, damages, costs and charges aforesaid, and also for 7 *l.* for her costs and charges by our court before us at *Westminster*, according to the form of the statute in such case thereof lately made and provided, to the same *Elizabeth* adjudged, whereof the said *Simon* is convicted, as it also appears to us on record; and have that money before us at *Westminster* from the day of the Holy *Trinity* in 15 days, wherefoever we shall then be in *England*, to be paid to the said *Elizabeth* for the debt and several damages, costs and charges aforesaid; And have there this writ. Witness, &c.

ANNE, &c. To the sheriff of *Monmouth* greeting: Whereas we lately commanded *Testatum fuit*
 our sheriffs of *London*, that of the goods and chattels of *J. P.* in their bailiwick they *facias* for the
 should cause to be made 200*l.* for a debt which *W. J.* lately in our court before us at *West-* residue after
minster recovered against him, and also 63*l.* 3*s.* which to the same *W.* lately in our same execution ad-
 court were adjudged for his damages which he sustained as well by reason of the detention judged on a
 of that debt, as for his costs and charges by him about his suit in that behalf expended, *scire facias.*
 whereof the same *John* is convicted, as it appears to us on record; and whereof in our said
 court before us at *Westminster* aforesaid it is considered, that the said *William* may have his
 execution against the said *John* for the debt and damages aforesaid, and that they should
 have that money before us at *Westminster* on *Monday* next after the morrow of *St. Martin*,
 to be paid to the said *William* for the debt and damages aforesaid; and our said sheriffs of
London on that day returned to us, that the said *John* hath no goods or chattels in their
 bailiwick whereof they could cause to be made the said debt and damages, or any part
 thereof; upon which on the behalf of the said *William* in our court before us it was suffi-
 ciently testified, that the said *John* had sufficient goods and chattels in your bailiwick on
 which the debt and damages aforesaid might be levied; whereupon we commanded the then
 sheriff of the county of *Monmouth*, that of the goods and chattels of the said *J. P.* in your
 bailiwick he should cause to be made the debt and damages aforesaid, and that he should
 have that money before us at *Westminster* on *Friday* next after the Octave of the Purification
 of the Bleis'd Virgin *Mary* last past, to be paid to the said *William* for the debt and da-
 mages aforesaid; and our said sheriff of *Monmouth* on that day returned to us, that by
 virtue of that writ to him directed, he had caused to be made of the goods and chattels of
 the said *John P.* 34*l.* 7*s.* parcel of the debt and damages aforesaid, which said money he
 had ready before us at the day and place aforesaid, as by that writ he was commanded;
 and that he the said *J. P.* had no other or more goods and chattels in his bailiwick whereof
 he could cause to be made the residue of the debt and damages aforesaid: And now on
 the behalf of the said *William* in our court before us it is farther sufficiently testified, that
 the said *John* hath sufficient goods and chattels in your bailiwick to satisfy the same *William*
 the residue of the debt and damages aforesaid: Therefore we command you, that of the
 goods and chattels of the said *John* in your bailiwick you cause to be made 168*l.* 16*s.*
 the residue of the said 203*l.* 3*s.* and have that money before us at *Westminster* on *Friday*
 next after a month of *St. Michael*, to be paid to the said *William* for the residue of the
 debt and damages aforesaid; And have there then this writ. Witness, &c.

Habeas corpus.

Habeas corpus
to remove a
person from
the Fleet to
the K. B.

GEORGE, by the grace of God, of *Great Britain, France and Ireland* King, defender of the faith, &c. To the warden of our prison of the *Fleet*, greeting: We command you, that the body of *Robert P. Esq;* in our prison under your custody, as it is said, detained, under a safe and secure conduct, together with the day and cause of his caption and detention, by whatever name the same *Robert* may be called in the same, you have before us at *Westminster* on day next after to answer to the governor of the lands, possessions, revenues and goods of the hospital of *King James*, founded in *Charter-house* within the county of *Middlesex*, at the humble petition and sole costs and charges of *Thomas S. Esq;* in a plea of trespass, and also to the bill of the said governor against him the said *Robert* for 1800*l.* debt, according to the custom of our court before us to be exhibited, and farther to do and receive what our court before us shall then and there consider concerning him in this behalf; And have there then this writ. Witness *Thomas Lord Parker*, baron of *Macclesfield*, at *Westminster* 26th day of *November* in the 4th year of our reign.

Otherwise to
remove a
cause out of
the sheriff's
court in *London*.

WILLIAM, &c. To the mayor, aldermen and sheriffs of the city of *London*, greeting: We command you, and every of you, that the body of *Joseph P.* in our prison under your or some of your custody, as it is said, detained, under a safe and secure conduct, together with the day and cause of his caption and detention, by whatever name the same *Joseph* may be called in the same, you have before our trusty and beloved *John Holt*, Knt. our chief justice assigned to hold pleas in our court before us, at his chambers situate in *Serjeants-Inn* in *Chancery-lane*, *London*, immediately after the receipt of this writ, to do and receive what our same chief justice shall then and there consider concerning him in this behalf; And have there then this writ. Witness, &c.

Directions to the marshal's court. } **T**O the judges of our court of our palace *Westminster*, and every of them, greeting: We command you, and every of you, that the body, &c. to; And have there then this writ. Witness, &c.

The NOTE.

Midd', to wit. *Habeas corpus* for *Joseph P.* to do and receive, returnable immediately.

Lilly.

Then in form of a bail-piece without duty.

Lilly, } *Midd'*, to wit. Let there be a *habeas corpus* to do and receive, returnable immediately for *Joseph P.*

William, &c. To the sheriff of *Middlesex*, greeting: We command you, that the *Habeas corpus* body of *Daniel W.* in our prison under your custody, as it is said, detained, under upon a *capias* a safe and secure conduct, together with the day and cause of his caption and detention, by in *Wiltshire*, whatever name the same *Daniel* may be called in the same, you have before us at *Westminster* immediately after the receipt of this writ, to do and receive all and singular those things which our same court before us shall then and there consider concerning him in this behalf; And have there then this writ. Witness *J. Holt*, Knt. at *Westminster* the 4th day of *November* in the 12th year of our reign.

Holt. Coleman.

This is made out by rule of court.

William, &c. To *W. B. Esq.* being marshal of our *Marshalsey*, before us, greeting: *Habeas corpus* We command you, that the body of *E. B.* in our prison under your custody, as it is said, detained, under a safe and secure conduct, by whatever name the said *E.* may be called in the same, you have before our trusty and beloved *John Holt*, Knt. our chief justice assigned to hold pleas in our court before us at *Westminster* in the great hall of pleas there, on *Thursday* the 29th day of this instant month *November* at 8 o'clock before noon of the same day, there to testify the truth of his knowledge in a certain cause in our court before us now depending, and then and there to be tried, between *A. B.* plaintiff, and *C. D.* defendant, in a plea of breach of covenant; and then immediately after the said *E. B.* shall then and there have given his testimony before the said chief justice, to return him the said *E. B.* to the same our prison under safe and secure conduct; And have there then this writ. Witness, &c.

ANE, &c. To the sheriff of *Middlesex*, greeting: We command you, that the *Habeas corpus* body of *J. B.* by whatever name he may be called, in our prison under your custody cum *causa re-* detained, as it is said, together with the day and cause of the caption and detention of the turnable be- same *J. B.* you have before *R. T. Esq.* one of our justices of the Bench, at his chambers fore a judge of the *C. B.* situate in *Serjeants-Inn* in *Fleet-street*, *London*, immediately after the receipt of this writ, to do and receive what our same justice shall then and there consider concerning him in this behalf; and have there this writ. Witness *T. Trevor*, Knt. &c.

ANE, &c. To the judges of our court of our palace at *Westminster*, and every of them, greeting: We command you, and every of you, that the body of *John K.* in our prison under your custody, as it is said, detained, under a safe and secure conduct, together with the day and cause of his caption and detention, by whatever name the same *John K.* may be called in the same, you have before us at *Westminster* on *Friday* next after three weeks of *St. Michael*, to answer to *John B.* in a plea of trespass, and also to the bill of him the said *John B.* against the said *J. K.* for 34 *l.* on promise, according to the custom of our court before us to be exhibited, and to do and receive all and every thing which our same court before us shall then and there consider concerning him in this behalf; And have there then this writ. Witness *T. P.* Knt. at *Westminster* 25th day of *June* in the 12th year of our reign.

William, &c. To the sheriff of *Monmouth*, greeting: We command you, that the *Habeas corpus* body of *S. P.* by you taken and in our prison under your custody, altho' sick, sick. detained, as by your return sent into our court before us manifestly appears to us, you have before us at *Westminster* on day next after to answer to the most noble *Henry Duke of B.* in a plea of trespass, and also to the bill of the said Duke against him the said *S.* for 100 *l.* debt; And have there then this writ. Witness, &c.

Habere

Habere facias possessionem.

In ejectment
after a *scire
facias*.

ANNE, &c. To the sheriff of *Oxford*, greeting: Whereas *Richard J.* lately in our court before us at *Westminster*, by our writ, and by the judgment of the same court, recovered against *T. B.* late of *London*, Gent. his term yet to come of and in 6 messuages, 200 acres of land, 40 acres of meadow, 100 acres of pasture, and 20 acres of wood with the appurtenances in *S.* and in the parish of *Stanton Harcourt* in your county, and also of and in the rectory of *Stanton Harcourt* with the appurtenances in your county, which one *W. M.* on the seventh day of *April* in the second year of our reign demised to the same *Richard* for a term of years which is not yet past, to wit, from the first day of the same month of *April* unto the full end and term of ten years from thence next ensuing and fully to be compleat and ended: By virtue of which said demise the same *Richard* into the rectory and tenements aforesaid with the appurtenances entred, and was thereof possessed, until the said *Thomas* afterwards, to wit, on the same 7th day of *April* in the second year of our reign aforesaid, with force and arms, &c. into the rectory and tenements aforesaid with the appurtenances in and upon the possession of the said *Richard* thereof entred, and him the said *Richard* from his farm aforesaid, his term aforesaid then and yet not ended, ejected, expelled and amoved, and him the said *Richard* from his possession thereof kept out, and yet doth keep out, whereof he is convicted, as it appears to us on record; and whereof in our same court before us it is considered, that the said *Richard J.* may have against the said *Thomas B.* his execution of that judgment, according to the force, form and effect of the recovery aforesaid, as it appears also to us on record: Therefore we command you, that you without delay cause the said *Richard* to have his possession of his term aforesaid yet to come of and in the said rectory and tenements with the appurtenances; and how you shall execute this our writ certify to us from the day of wherefoever, &c. returning to us this our writ. Witness, &c.

Otherwise.

WILLIAM, &c. To the sheriff of *Lincoln*, greeting: Whereas *T. L.* lately in our court before us at *Westminster*, by our writ, and by the judgment of the same court, recovered against *L. L.* late of *London*, Gent. his term yet to come of and in the moiety of the manor of *Fursby*, otherwise *Frisby*, (and so name the parcels in your declaration) which *A. M.* spinster, on the 18th day of *January* in the 11th year of our reign, at *Spalding* in your county, demised to the same *Thomas*, to have and to hold to the same *T.* and his assigns from the 15th day of the same month of *January* unto the full end and term of five years from thence next ensuing and fully to be compleat and ended: By virtue of which said demise the same *T. L.* into the moiety of the manor and tenements aforesaid with the appurtenances entred, and was thereof possessed, until the said *L. L.* afterwards, to wit, on the same 18th day of *January* aforesaid, with force and arms, &c. into the moiety of the manor and tenements aforesaid with the appurtenances, which the said *A. M.* to the same *T. L.* in form aforesaid demised for the term aforesaid, which is not yet ended, entred, and him the said *T. L.* from his farm aforesaid ejected, whereof the same *L. L.* is convicted, as it appears to us on record: Therefore we command you, that you without delay cause the said *Thomas L.* to have his possession of his term aforesaid yet to come of and in the moiety of the manor and tenements aforesaid with the appurtenances; and how you shall have executed this our writ certify to us wherefoever we shall then be in *England*: And have there this writ. Witness, &c.

William, &c. To the sheriff of Cambridge, greeting: Whereas T. S. hath lately in ^{Otherwise,} our court before George T. Knt. and his companions, our justices of the Bench at ^{and a writ} Westminster, by our writ and by the judgment of the same court, recovered against J. B. late ^{saies on a} of ^{judgment af-} in your county, Esq; his term yet to come of and in the rectory of Abington ^{firmed in} Magna, and 10 messuages, ^(so mention the parcels) with the appurtenances in Abington ^{K. B.} Magna and Abington Parva in your county, which C. B. Gent. on the 20th day of November in the 11th year of our reign demised to the same Thomas, to have and to hold to the said Thomas and his assigns from the 20th day of the same month of November unto the full end and term of five years from thence next ensuing and fully to be compleat and ended: By virtue of which said demise the same Thomas into the rectory and tenements aforesaid with the appurtenances entred, and was thereof possessed, until the said John afterwards, to wit, on the said 20th day of November in the 11th year aforesaid, with force and arms, &c. into the rectory and tenements aforesaid in and upon the possession of the said Thomas entred, and him the said Thomas from his farm aforesaid ejected, and also 13 l. 6 s. 8 d. for his damages which he sustained as well by reason of the trespass and ejectment aforesaid, as for his costs and charges by him about his suit in that behalf expended, whereof the same John is convicted, as by the inspection of the record and proceedings thereof, which we lately caused to be brought into our court before us for certain causes of error, and which in our same court before us, being in all things affirmed, appears to us on record, and also 8 l. 10 s. which to the same Thomas in our same court before us at Westminster aforesaid, according to the form of the statute thereof lately made ^{3 H. 7. c. 10.} and provided, were adjudged for his damages, costs and charges which he sustained by reason of the delay of execution of the judgment aforesaid, on pretence of the prosecution of our said writ of error by the said John against the said Thomas of and upon the premises prosecuted, and whereof the same John is likewise convicted, as it appears also to us on record: Therefore we command you, that you without delay cause the said Thomas to have his possession of his term aforesaid yet to come of and in the rectory and tenements aforesaid with the appurtenances; and what you shall do therein certify to us on ^{where-} soever we shall then be in England: We likewise command you, that of the goods and chattels of the said John B. in your bailiwick you cause to be made as well the said 13 l. 6 s. 8 d. which the said Thomas hath in form aforesaid recovered against the said John for his damages which he sustained as well by reason of the trespass and ejectment aforesaid, as for his costs and charges by him about his suit in that behalf expended, as also the said 8 l. 10 s. which to the said Thomas in our same court before us were in form aforesaid adjudged by reason of the delay of execution of the judgment aforesaid, on pretence of the prosecution of our said writ of error; and have that money before us on the said day, to be paid to the said Thomas for his several damages, costs and charges aforesaid; And have there this writ. Witness, &c.

Habere facias seisinam.

Writ of seisin
in dower after
judgment af-
firmed in
K. B.

WILLIAM, &c. To the sheriff of *Stafford*, greeting: Whereas *Susanna J.* widow, who was the wife of *John J.* yeoman, hath lately in our court before *George T.* Knt. and his companions, our justices of the Bench at *Westminster*, by our writ of dower, whereof she hath nothing, and by the judgment of the same court, recovered against *W. J.* clerk, her seisin of the third part of one messuage, 10 acres of land, &c. as the dower of her the said *S.* of the endowment of the said *J. J.* her late husband, whereof the same *W.* is convicted, as by the inspection of the record and proceedings thereof, which we caused to be brought into our court before us, by virtue of our writ of error by the said *W.* of and upon the premises prosecuted, and which in our same court before us in all things affirmed now remaining appears to us on record: Therefore we command you, that you without delay deliver to the said *S.* seisin of the third part of the said one messuage, &c. to hold to her in severalty by metes and bounds, according to the force, form and effect of the recovery and affirmance aforesaid; and how you shall execute this our writ certify to us on the morrow of the Ascension of the Lord wheresoever, &c. returning to us this our writ. Witness, &c.

Writ of seisin
on a writ of
assise of novel
disseisin.

ANNE, &c. To the sheriff of *Middlesex*, greeting: Whereas *Nicholas W.* Gent. in the court of the Lord *William* the Third, late King of *England*, &c. before the late King himself at *Westminster*, by the writ of the same late King of assise of novel disseisin which the said *Nicholas W.* arraigned before the said late King at *Westminster* against *William S.* Esq; and by the judgment of the same court, hath recovered against him the said *W. S.* his seisin of the office of marshal of the *Marshalsey* of the said late Lord the King before the King himself, with the appurtenances in the parish of *St. Margaret Westminster* in our county of *Middlesex*, by the view of the recognisors of the assise aforesaid, whereof the same *W. S.* is convicted, as by the record and proceedings thereof in our court before us remaining more fully is manifest and appears: Therefore we command you, that you without delay cause the said *Nicholas W.* to have full seisin of the office of marshal of the *Marshalsey* aforesaid with the appurtenances; and how you shall execute this our writ certify to us at *Westminster* from the day of *Easter* in 15 days, wheresoever, &c. then returning to us this our writ. Witness *J. Holt*, Knt. at *Westminster*, &c.

Inquiry.

Inquiry.

WILLIAM, &c. To the sheriff of *Middlesex*, greeting: Whereas *Martin T.* An inquiry in
lately in our court before us at *Westminster*, by bill, without our writ, im- an action on
pleaded *Thomas R.* being in the custody of the marshal of our *Marshalsey* before the case.
us, for this, to wit, that whereas the said *Thomas* on the first day of *December* in the 12th
year of our reign, at *Westminster* in your county, was indebted to the said *Martin* in
50*l.* (so on the declaration verbatim to) hath altogether refused, and yet doth refuse, to the
damage of him the said *Martin*, as he said, 55*l.* And therefore he then produced the
suit, &c. And it was in such manner proceeded in our same court before us at *Westminster*
that it was considered by the said court, that the said *Martin* ought to recover his damages
against the said *T.* by reason of the non-performance of the several promises and assumptions
aforesaid: But because our court before us doth not know what damages the said *Martin* hath
sustained by reason of the premisses aforesaid, therefore we command you, that by the oath
of 12 good and lawful men of your bailiwick you diligently inquire what damages the said
Martin hath sustained, as well by reason of the non-performance of the several promises and
assumptions aforesaid, as for his costs and charges by him about his suit in this behalf ex-
pended; and the inquisition which you shall thereon make send to us at *Westminster* on
day next after under your seal and the seals of those by whose oath you shall take
that inquisition, together with this writ. Witness *J. Holt*, Knt. at *Westminster* 20th day of
June in the 13th year of our reign.

CHARLES, &c. To the sheriff of *Tork*, greeting: Whereas *William B.* lately in our An inquiry
court before us at *Westminster* on day next after in *Easter* term in the for the mesne
32d year of our reign, by bill, without our writ, and by the judgment of the same profits after
court recovered against *Elizabeth B.* widow, the possession of his term yet to come of and judgment in
in six messuages, 1000 acres of land, 1000 acres of meadow, 1000 acres of pasture, 1000 acres of land, called the *Meere*, covered with water, with the appurtenances in the parish of *Hatfield* and *Tborne* in the county of *Tork* aforesaid, which *John H. Esq.* on the 20th
day of *November* in the 31st year of our reign at *Hatfield* in your county demised to the
said *William*, to have and to hold to the said *William* and his assigns from the feast of *St.*
Martin the Bishop in the winter then last past unto the full end and term of seven years
from thence next ensuing and fully to be compleat and ended, whereof the same *Elizabeth*
is convicted, as it appears to us on record: And whereas also afterwards, to wit, on *Friday*
the 11th day of *February* in the 33d year of our reign in our court of *Exchequer* chamber
at *Westminster*, before our justices of the Bench at *Westminster* and the barons of our *Ex-*
chequer of the degree of the coif, it was considered, that the judgment aforesaid should
be in all things affirmed, as by the record and proceedings thereof in our said court before
us into the said court of our *Exchequer* chamber aforesaid, by virtue of our writ of error,
by the said *Elizabeth* of and upon the premisses before the justices and barons aforesaid in
the said court of *Exchequer* chamber prosecuted, transmitted, and afterwards out of the same
court of *Exchequer* chamber aforesaid into our said court before us at *Westminster* duly re-
mitted, and there now of record remaining more fully appears; and the said *W.* according to
the

13 E. 1. c. 14. the form of the statute thereof lately made and provided, ought to recover his damages for the mean profits of the tenements aforesaid with the appurtenances, and for waste in the same committed after the rendition of the judgment aforesaid: But because our court now here doth not know to how much the issues and profits of the tenements aforesaid with the appurtenances from the day of the rendition of the judgment aforesaid, to wit, the said *Wednesday* next after 15 days of *Easter* in the 32d year of our reign aforesaid, until the said day of the affirmance of the judgment aforesaid, do amount, and what damages the said *William* hath sustained by reason of any waste in the same tenements with the appurtenances after the said day of the rendition of that judgment committed, we command you, that by good and lawful men of your bailiwick you diligently inquire to how much the issues and profits of the tenements aforesaid with the appurtenances from the day of the rendition of the judgment aforesaid unto the said day of the affirmance of the judgment aforesaid do amount, according to the true value of the same tenements with the appurtenances, and also what damages the same *W.* hath sustained by reason of any waste in the same tenements with the appurtenances from the said day of the rendition of the judgment aforesaid unto the said day of the affirmance of that judgment committed; and the inquisition which you shall thereon take send to us at *Westminster* on _____ day next after _____ under your seal and the seals of those by whose oath you shall take that inquisition, together with this writ. Witness *Francis P. Knt.* at *Westminster* 12th day of *June* in the 33d year of our reign.

The return.

AN inquisition indented taken at the castle of *York* on the 18th day of *September* in the 33d year of the reign of the Lord *Charles* the Second, by the grace of God, of *England, Scotland, France* and *Ireland* King, defender of the faith, &c. before me *Richard G. Bart.* sheriff of the county aforesaid, by virtue of the writ of the Lord the King to me directed, and to this inquisition annexed, by the oath of *John B. Joshua S. T. S. T. D. J. E. R. B. J. W. J. D. N. E. G. N. M. B. M. T. and T. W.* good and lawful men of my bailiwick, who being charged and sworn say on their oath, that the issues and profits of the tenements in the said writ specified, from the day of the rendition of the judgment aforesaid in the writ aforesaid likewise mentioned, to wit, from the said *Wednesday* next after 15 days of *Easter* in the 32d year of the reign of the Lord the now King, unto the day of the affirmance of the judgment aforesaid in the said writ specified, do amount to 57 *l.* 19 *s.* 6 *d.* And the jurors aforesaid on their oath aforesaid farther say, that *William B.* in the said writ named, hath not sustained any damage by reason of any waste in the same tenements with the appurtenances at any time after the rendition of the judgment aforesaid unto the affirmance of the same, to the knowledge of the jurors aforesaid. In witness whereof as well I the said sheriff as the jurors aforesaid our seals to this inquisition have severally put, the day and year aforesaid, &c.

Richard Graham, Bart. sheriff.

Inquiry of damages in replevin where judgment was given for the defendant on demurrer.

ANNE, &c. To the sheriff of *Middlesex*, greeting: Whereas *John S.* late of the parish of *St. Clement Danes* in your county, Esq; was summoned to be in our court before us to answer to *William P. Esq;* in a plea, why on the 14th day of *October* in the first year of our reign, at the parish of *St. Clement Danes* in your county, in a certain place there called a chamber in *Devereux Court*, he took the goods and chattels of him the said *William*, to wit, one bed, one bedstead, one bolster, one pillow, four curtains vallance, two blankets, one quilt, one chest of drawers, 20 books, one looking-glass, one large brush, one large trunk, and four chairs, and unjustly detained them, against surety and pledges, until, &c. And the said *John S.* came and in our same court before us alledged and said, that the said *William* ought not to have or maintain his action aforesaid thereof against him, because he said, that as to the said one bed, one bedstead, one bolster, one pillow, four curtains vallance, two blankets, one quilt, one looking-glass and 10 books, parcel of the goods and chattels aforesaid in the declaration aforesaid mentioned, the property of those goods and chattels at the said time of the taking of the same was in him the said *John*; without that, that the property of those goods and chattels at the said time of the taking of the same was in the said *William*, as by the declaration aforesaid was above supposed: And this he was ready to verify: And as to the said one chest of drawers, one large brush, one large trunk, 10 other books and four chairs, the residue of those goods and chattels last mentioned, the property of the same goods and chattels was in one *Richard F.* without that, that the property of the residue of those goods and chattels was in the said *William*, as by the declaration aforesaid was above supposed: And this he

he was ready to verify and prove, &c. Wherefore he prayed judgment if the said *William* ought to have or maintain his action aforesaid thereof against him, &c. and he prayed also a return of all and singular the goods and chattels aforesaid, together with his damages, costs and charges by him about his suit in that behalf expended, to be adjudged to him, &c. And the said *William* said, that the plea aforesaid by the said *John* above pleaded, and the ^{Demurrer} matter in the same contained, were insufficient in law to preclude him the said *William* from having his action aforesaid against the said *John*, and that he to that plea in manner and form aforesaid pleaded had no necessity, nor was by the law of the land obliged in any manner to answer: And this he was ready to verify: Wherefore for want of a sufficient answer in this behalf, he the same *William* prayed judgment and his damages, by reason of the caption and unjust detention of the goods and chattels aforesaid, to be adjudged to him, &c. And the said *John* said, that the plea aforesaid by him the said *John* in manner and form ^{joinder} aforesaid above pleaded, and the matter in the same contained, were good and sufficient in law to preclude the said *William* from having his action aforesaid against him the said *John*; which said plea, and the matter in the same contained, he the same *John* was ready to verify and prove, as the court, &c. And because the said *William* did not answer to that plea, nor hitherto in any wise deny it, he the same *John* (as before) prayed judgment, and a return of all and singular the goods and chattels aforesaid, together with his damages, &c. to be adjudged to him, &c. And it was thereupon in such manner proceeded in our same court ^{Judgment for} before us, that it was considered, that the plea aforesaid by him the said *John* above pleaded, ^{the defendant} and the matter in the same contained, were good and sufficient in law to preclude the said *William* from having his action aforesaid against him the said *John*: It was also considered, that the said *William* P. should take nothing by his writ aforesaid, but for his false claim should be in mercy; &c. and that the said *John* ought to recover his damages against the said *William* by reason of the caption and unjust detention of the goods and chattels aforesaid: Therefore we command you, that by the oath of 12 good and lawful men of your bailiwick you diligently inquire what damages the same *John* hath sustained, as well by reason of the caption and unjust detention of the goods and chattels aforesaid, as for his costs and charges by him about his suit in this behalf expended; and the inquisition which you shall thereof take send to us on ^{wherefoever} we shall then be in *England*, under your seal and the seals of those by whose oath you shall take that inquisition, together with our writ to you therefore directed. Witness *J. Holt*, Knt. at *Westminster* 12th day of *February* in the second year of our reign.

GEORGE, &c. To the sheriff of *Sex*, greeting: Whereas *William A.* was summoned ^{An inquiry of} to be in the court of the Lady *Anne*, late Queen of *Great Britain*, &c. before the late ^{the arrears of} Queen herself, to answer to *Matthew G.* in a plea, why the said *William* on the 9th day of ^{rent and value} April in the 12th year of the reign of the said Lady the Queen, at *Chalvington* in the county ^{of the cattle} aforesaid, in a certain place there, called the *Croft*, took the cattle, to wit, 8 ewes and 6 ^{distraint on a} lambs of him the said *Matthew*, and them unjustly detained, against surety and pledges, &c. ^{plevin.} And the same *William* in the same court before the said Lady the late Queen appearing, for a certain cause by him alledged said, that he took the cattle aforesaid at *Ripe*, otherwise *Cocklington* in the county aforesaid; without that, that he took the cattle aforesaid at *Chalvington* in the county aforesaid, as the said *Matthew* by his declaration aforesaid had above alledged: And this he was ready to verify: Wherefore he prayed judgment of the writ aforesaid, and that the said writ and declaration, &c. and to have a return of the cattle aforesaid; the same *William*, as bailiff of *Robert R.* well acknowledged the taking of the cattle aforesaid in the said place to be just, &c. because he said, that the same place, called the *Cony Earths*, contained in itself 5 acres of land with the appurtenances in the said parish of *Ripe*, otherwise *Cocklington* in the county aforesaid, of which said 5 acres of land with the appurtenances the same *Robert R.* before the said time when, &c. was seised in his demesne as of fee; and being so thereof seised, before the said time when, &c. to wit, on the 18th day of *March* in the 11th year of the reign of the said Lady the late Queen, at the parish of *Semiston* in the county aforesaid, the said *Robert R.* demised to one *Matthew G.* the younger the said 5 acres of land with the appurtenances, by the name of all those two pieces or parcels of pasture, called the *Cony Earths*, with the appurtenances lying and being in *Ripe*, otherwise *Cocklington* aforesaid; To have and to hold the said 5 acres of land with the appurtenances whereof, &c. to the same *Matthew G.* from the feast of the Annunciation of the Blessed Virgin *Mary* then next ensuing unto the end and term of one whole year, and so from year to year as long as both parties should please; Yielding and paying therefore the yearly rent or sum of 50s. of lawful money of *Great Britain*, at the two most usual feasts or terms in the year, to wit, on the feast of *St. Michael* the Archangel and the Annunciation of the Blessed Virgin *Mary*, by even and equal portions to be paid: By virtue of which demise the same *Matthew G.* the younger, afterwards

and before the said time when, &c. to wit, on the 26th day of *March* in the year last above said, into the said 5 acres of land with the appurtenances whereof, &c. entred, and was thereof possessed; and he the said *Matthew G.* the younger being so thereof possessed, and the said *Robert* of the reversion of the said 5 acres of land with the appurtenances being seised in his demesne of fee; and because 50 s. of the rent aforesaid, for one year ended on the feast of the Annunciation of the Blessed Virgin *Mary* in the 12th year of the reign of the said late Queen, to the same *Robert* after that feast and at the said time when, &c. were in arrear and unpaid, the same *William*, as bailiff of the said *Robert*, well acknowledged the taking of the cattle aforesaid in the said place in which, &c. as in parcel of the tenements aforesaid with the appurtenances whereof, &c. to the same *Matthew G.* in form aforesaid demised, and justly, &c. for the said 50 s. rent to the said *Robert* in form aforesaid being in arrear, &c. And this he was ready to verify: Wherefore he prayed judgment, and a return of the cattle aforesaid, together with his damages, costs and charges in this behalf expended, according to the form of the statute in such case made and provided, to be adjudged to him, &c. And afterwards the said Lady the Queen departed this life: And upon this the said *Matthew* prayed leave of our court before us until on the morrow of the Holy *Trinity*, wheresoever, &c. to plead in bar to the cognisance aforesaid; and he had, &c. The same day was given to the said *William*, &c. On which day came the said *William* into our same court before us at *Westminster*, and the said *Matthew*, altho' solemnly called, did not come, nor farther prosecute his writ aforesaid: Therefore it is considered, that the said *Matthew* take nothing by his writ aforesaid, but be in mercy for his false claim thereof, and that the said *William* do go thereof without day, &c. Therefore we command you, that according to the form of the statute in such case lately made and provided, by the oath of 12 good and lawful men of your county you diligently inquire how much of the yearly rent aforesaid at the said time of the taking and distraining of the goods and chattels aforesaid was in arrear and unpaid, and how much the goods and chattels aforesaid so as aforesaid taken and distrained were worth, according to the true value of the same; and the inquisition which, &c. send to us from the day of *St. Michael* in three weeks under your seal and the seals of those by whose oath you shall take that inquisition, together with this writ. Witness *T. Parker*, Knt.

The execution of this writ appears in a certain schedule to this inquisition annexed.

The return. *Suffex*, to wit. **A**N inquisition indented taken at *Eastgrinstead* in the county aforesaid on the fifth day of *August*, &c. In witness whereof as well I the sheriff as the jurors aforesaid have to this inquisition set our seals the day, year and place above said.

James Smith, Bart. sheriff.

The rent in arrear 8 l.

The value of the goods 8 l.

For costs, according to the form of the statute, 9 l.

8 December 1715.

An inquiry of damages in replevin after judgment on demurrer. **J**AMES, &c. To the sheriff of *Gloucester*, greeting: Whereas *John W.* Gent. lately in our court before us at *Westminster*, by our writ impleaded *Francis C.* Esq; *Henry C.* the elder, *George T.* *William B.* and *Henry C.* the younger, in a plea, why they took the cattle of him the said *John*, and them unjustly detained, against surety and pledges, &c. And thereupon the same *John* by *Thomas E.* his attorney complained, that the said *Francis*, *Henry C.* the elder, *George*, *William*, and *Henry C.* the younger, on the first day of *September* in the 36th year of the reign of the Lord *Charles* the Second, late King of *England*, &c. at the parish of *St. Philip* and *James* in your county aforesaid, in a certain place there called *Conbam*, took the cattle, to wit, fifty sheep of him the said *John*, and them unjustly detained, against surety and pledges, until, &c. whereby he then said that he was prejudiced, and had damage to the value of 20 l. And therefore he then produced the suit, &c. And thereupon the said *Francis*, *Henry*, *George*, *William* and *Henry*, by *C. H.* their attorney came and defended the force and injury when, &c. And the said *Francis* in his own right well avowed, and as bailiff of *Thomas S.* and *Stephen C.* Gent. well acknowledged, and the said *Henry*, *George*, *William* and *Henry*, as bailiffs of the said *Francis*, *Thomas* and *Stephen*, well

acknowledged the taking of the cattle aforesaid, in the said place in which, &c. and justly, &c. because they said that long before the said time when, &c. the Lord *Charles* the Second, late King of *England*, &c. was seised of and in the forest or chase called *Kingswood*, with the appurtenances in your county aforesaid, in his demesne as of fee in the right of his crown of *England*; and that the said place in which, &c. is and at the said time when, &c. and also for time immemorial was within the forest aforesaid, and parcel of the same forest, and that the same late King being so seised before the said time when, &c. by indenture made at *Westminster* in the county of *Middlesex*, on the 20th day of *January* in the 21st year of the reign of the same late King, between the same late King of the one part, and one *Baynham* T. Knt. and Bart. of the other part, which said indenture sealed under the great seal of *England*, the same *Francis*, *Henry*, *George*, *William* and *Henry* then in court produced, the date whereof is the day and year last aforesaid, the same late King *Charles* the Second, for the considerations in the same indenture mentioned, with the advice of two of the commissioners of the treasury of the same late King, granted, demised and to farm let to the said *Baynham* the forest or chase aforesaid, with the appurtenances, by the name of all that forest or chase called *Kingswood*, lying and being in or near the parish of *St. Philip* and *James* in the city of *Bristol* in the parish of *Bitten Mangetfield*, otherwise *Mangerfield*, *Stapleton*, otherwise *Stableton*, *Hambrooke* and *Westanbam* in your county, containing by estimation 3432 acres of waste land, more or less, and extending on sundry other lands, as well waste as inclosed, in or near the parishes aforesaid, or some of them, together with all bucks, does and other beasts then being within the limits of the forest or chase aforesaid, and all liberties, franchises, privileges, rights and appurtenances to the same forest or chase belonging, incident or appendant, or within the forest or chase then before had, used or enjoyed in the times of the Lady *Elizabeth*, late Queen of *England*, or of the Lord *James*, late King of *England*, and the Lord *Charles* the First, late King of *England*, or any of them, by reason or pretence of the said forest or chase, or the liberties and franchises of the same; To have and to hold the said forest, chase, franchises, liberties, privileges, and all and singular other the premisses in the same indenture mentioned and intended to be thereby granted, with their and every of their appurtenances to the said *B. T.* his executors, administrators and assigns, from the feast of *St. Michael* the Archangel then last past, for and during the term of 60 years from thence next ensuing, fully to be compleat and ended: And the said late King *Charles* the Second willed, and by the same indenture for himself, his heirs and successors, gave and granted to the said *Baynham*, his executors, administrators and assigns, full power and authority to replenish the forest or chase aforesaid with deer, and by all lawful ways and means to erect lodges for the keepers, and to hinder and suppress purprestures, assarts and nuisances there, of what nature or kind soever, and also to preserve the covert and vert for the safety and preservation of the beasts aforesaid, as by the indenture aforesaid, among other things, is more fully manifest, by virtue of which said demise the said *Baynham* into the forest or chase aforesaid, with the appurtenances entered, and was thereof possessed, and being so thereof possessed, the same *Baynham* afterwards, and before the said time when, &c. to wit, on the first day of *March* in the 32d year of the reign of the said Lord King *Charles* the Second, at the parish of *St. Philip* and *James* aforesaid, assigned to one *Mary B.* the premisses aforesaid, with the appurtenances, and all his right, title and interest of and in the same, to have and to hold to the same *Mary*, her executors and assigns, during all the residue of the said term of 60 years then to come and unexpired, by virtue of which said assignment the same *Mary* into the premisses aforesaid entred and was thereof possessed; and being so thereof possessed, the said *Mary* afterwards and before the said time when, &c. to wit, on the third day of *January* in the 33d year of the reign of the said Lord King *Charles* the Second, at the parish of *St. Philip* and *James* aforesaid, assigned to the said *Francis*, *Thomas* and *Stephen*, the premisses aforesaid, with the appurtenances, and all her right, title and interest of and in the same, to have and to hold to the same *Francis*, *Thomas* and *Stephen*, during all the residue of the said term of 60 years then to come and unexpired, by virtue of which said assignment the same *Francis*, *Thomas* and *Stephen* into the premisses aforesaid, with the appurtenances entred, and were and yet are thereof possessed; and because the cattle aforesaid at the said time when, &c. were in the said place in which, &c. eating up the grass there growing, and doing damage there, the said *Francis* in his own right well avowed, and as bailiff of the said *Thomas* and *Stephen* acknowledged, and the said *Henry*, *George*, *William* and *Henry*, as bailiffs of the said *Francis*, *Thomas* and *Stephen*, well acknowledged the taking of the cattle aforesaid in the said place in which, &c. and justly, &c. so doing damage there: And this they were ready to verify: Wherefore they prayed judgment and a return of the cattle aforesaid, together with their damages, costs and charges in that behalf expended, according to the form of the statute in such case made and provided, to be adjudged to them, &c. And the said *John W.* thereto said, that the said *Francis*, *Henry*, *George*, *William* and *Henry*, for the reason before

before alledged, ought not as bailiffs of the said *Thomas S.* and *Stephen C.* to acknowledge, nor the said *Francis* in his own right to avow the taking of the cattle aforesaid in the said place in which, &c. just, because by protesting that the said Lord King *Charles* the Second never was seised of the soil or land of the forest or chase of *Kingswood* aforesaid, for plea the same *John W.* said, that long before the said time of the taking of the cattle aforesaid made, and also before the said time when it is supposed that the said late King *Charles* the Second was seised of the forest or chase aforesaid, to wit, on the third day of *April* in the 23d year of the reign of the late King *Charles* the First, *John W.* the elder, father of him the said *John W.* was seised of the manor of *St. Lawrence* within the parish of *St. Philip* and *James*, with the appurtenances in your county aforesaid, whereof the said place in which, &c. is and at the said time when, &c. and also for time immemorial was parcel in his demesne as of fee; and being so thereof seised, the same *John W.* the elder afterwards and before the said time when, &c. at *Conbam* aforesaid died of such his estate thereof seised, after whose death the said manor with the appurtenances, whereof the said place in which, &c. is parcel, descended to the said *John* as son and heir of him the said *John*, by reason whereof the said *John* the son afterwards and before the said time when, &c. into the said manor with the appurtenances entred, and at the time of the taking of the cattle aforesaid was and yet is seised thereof in his demesne as of fee, and being so thereof seised, the same *John* before the said time when, &c. put his cattle aforesaid into the said place in which, &c. to feed on the grafs there then growing, until the said *Francis*, *Henry*, *George*, *William* and *Henry*, on the day and year in the declaration aforesaid specified at *Conbam* aforesaid, took the cattle aforesaid of him the said *John*, and unjustly detained them against surety and pledges, until, &c. as he above against them complained: And this he was ready to verify: Wherefore he prayed judgment and his damages, by reason of the caption and unjust detention of those cattle, to be adjudged to him, &c. And the said *Francis*, *Henry*, *George*, *William* and *Henry* thereupon said, that the said plea of the said *John* above in bar of the avowry and cognisance aforesaid pleaded, was insufficient in law to maintain him the said *John* to have his action aforesaid against them the said *Francis*, *Henry*, *George*, *William* and *Henry*, and that they to that plea in manner and form aforesaid pleaded had no necessity, nor were by the law of the land obliged in any manner to answer: And this they were ready to verify: Wherefore for want of a sufficient plea in this behalf they prayed judgment, and a return of the cattle aforesaid, together with their damages in this behalf sustained, to be adjudged to them, &c. And for cause of demurrer 27 El. c. 5. 4 A. c. 16.

Demurrer. The causes.

Joinder in demurrer. triable, and because that plea was insufficient and wanted form, and thereupon the said *John W.* said that the plea aforesaid by him the said *John* above, in bar to the avowry and cognisance aforesaid pleaded, and the matter in the same contained, were good and sufficient in law to preclude the said *Francis*, *Henry*, *George*, *William* and *Henry* from having their avowry and cognisance aforesaid; which said plea, and the matter in the same contained, the same *John* was ready to verify and prove, as the court, &c. And because the said *Francis*, *Henry*, *George*, *William* and *Henry* to that plea did not answer, nor hitherto in any wise deny it, the same *John* as before prayed judgment and his damages aforesaid, by reason of the caption and unjust detention of the cattle aforesaid, to be adjudged to him, &c. and because the court of the said Lord the King here were not advised to give their judgment of and upon the premisses, day therefore was given to the parties aforesaid before the said Lord the King from the day of *Easter* in 15 days, wheresoever, &c. to hear their judgment of and upon the premisses, because the court of the said Lord the King thereof, &c. On which day before the Lord the King at *Westminster* came the parties aforesaid, by their attornies aforesaid; whereupon all and singular the premisses being seen, and by the court of the said Lord the King fully understood, and mature deliberation being thereon had, it was considered that the plea aforesaid by him the said *John* above in bar to the avowry and cognisance aforesaid pleaded, was good and sufficient in law to maintain him the said *John* to have his action aforesaid against them the said *Francis*, *Henry*, *George*, *William* and *Henry*: Wherefore it was also considered, that the said *John* ought to recover his damages against them the said *Francis*, *Henry*, *George*, *William* and *Henry*, by reason of the caption and unjust detention of the cattle aforesaid: But because it is not known what damages the said *John* hath sustained by the reason aforesaid, therefore we command you, that by the oath of 12 good and lawful men of your bailiwick you diligently inquire what damages the same *John* hath sustained, as well by reason of the premisses, as for his costs and charges by him about his suit in this behalf expended; and the inquisition which you shall thereupon take, send to us wheresoever, &c. under your seal and the seals of those by whose oath you shall take that inquisition, together with this writ. Witness *Edmund Herbert*, Knt. at *Westminster* the 17th day of *May* in the second year of our reign.

Inquiry.

ANNE, &c. To the Sheriff of *Middlesex*, greeting: Whereas *Robert S.* lately in our Writ of inquiry after a court before us at *Westminster*, to wit, in *Michaelmas* term in the first year of our reign, by bill, without our writ impleaded *John H.* being then in the custody of the marshal of our *Marshalsey* before us, for this, to wit, that whereas the said *John* and *Robert* on the 12th day of *April* in the year of the Lord 1702, at *Westminster* in your county, where the defendant died before the return of the first writ of inquiry, accounted together (so on the declaration so) altogether refused, and then did refuse, to the damage of him the said *Robert* 40*l.* as he said, and it was in such manner proceeded in our same court before us at *Westminster*, that it was considered that the said *Robert* ought to recover his damages by reason of the non-performance of the several promises and assumptions aforesaid; but because it was not then known to our court before us what damages the same *Robert* had sustained by reason of the premises, we commanded your predecessor, that by the oath of 12 good and lawful men of your bailiwick, he should diligently inquire what damages the said *Robert* had sustained, as well by reason of the non-performance of the several promises and assumptions aforesaid, as for his costs and charges by him about his suit in that behalf expended, and the inquisition which he should thereon make should send to us at *Westminster* on *Wednesday* next after 15 days of *Easter* then following under his seal, and the seals of those by whose oath he should take that inquisition, together with that writ; and the same day was given to the said *Robert* before us at *Westminster* aforesaid, as by the record and proceedings thereof in our said court before us at *Westminster* manifestly appears: And whereas on the behalf of the said *Robert S.* it was shewn to us, that before the said *Wednesday* next after 15 days of *Easter* the said *John H.* died intestate, and the inquisition of the damages aforesaid yet remains to be executed; and that one *Mary H.* widow and relict of him the said *John*, was administratrix of all and singular the goods and chattels, rights and credits which belonged to the said *John H.* her late husband, deceased, as we by the suggestion of the said *Robert S.* understood: And because we were willing that those things which had been lawfully transacted in our same court before us should be carried into due execution, we commanded you that by good and lawful men of your bailiwick you should give notice to the said *Mary* that she should be before us at *Westminster* on *Saturday* next after the morrow of *All-souls*, to shew if she had or could say any thing for herself why the damages aforesaid in the action aforesaid ought not to be assessed, and by the said *Robert* recovered, according to the form and effect of the statute in such case lately made and provided, if she should think fit; and further, to do and receive what our said court before us should then and there consider concerning her in that behalf: And that you should have there then the names of those by whom you should give her notice, and that writ. On which day before us at *Westminster* came the said *Robert S.* by *N. S.* his attorney: And you our sheriff of *Middlesex* returned, that by *Robert N.* and *John S.* good and lawful men of your bailiwick you had given notice to the said *Mary* that she should be before us on the day and place in the writ aforesaid contained, to shew, &c. according to the tenor of the writ aforesaid; which said *Mary* so warned, being on the same day solemnly called, by *John B.* her attorney likewise came: Whereupon the said *Robert* prayed that the damages aforesaid in the action aforesaid might be assessed, and by him the said *Robert* recovered: And because the said *Mary* then said nothing, nor shewed nor alledged any Matter to arrest the final judgment in the action aforesaid, or why the damages in that behalf should not be assessed: Therefore on the petition of the said *Robert* we command you, that by good and lawful men of your bailiwick you diligently inquire what damages the same *Robert* hath sustained, as well by reason of the premises as for his costs and charges by him about his suit in that behalf expended; and the inquisition which you shall thereof take send to us at *Westminster* on *Friday* next after the morrow of the Holy *Trinity*, under your seal, and the seals of those by whose oath you shall take that inquisition, together with this writ. Witness *J. Holt*, Knt. at *Westminster* the 30th day of *May* in the third year of our reign.

8 & 9 W. 3.
c. 10.

An *habere facias possessionem*, and a writ of inquiry on a judgment in ejectment.

ANNE, &c. To the sheriff of *Stafford*, greeting: Whereas *Josias S.* lately in our court before us at *Westminster* by our writ, and by the judgment of the same court, recovered against *Isaac W.* late of *Longden* in your county, yeoman, his term yet to come of and in two barns 60 acres of land, 50 acres of arable land, 30 acres of meadow, and 20 acres of pasture, with the appurtenances in *Longden*, which *Francis C.* widow, on the second day of *November* in the 13th year of the reign of the Lord *William* the Third, our most dear brother, late King of *England*, &c. to the same *Josias S.* demised for a term which is not yet past, to wit, from the 30th day of *October* then last past, unto the end and term of five years from thence next ensuing and fully to be compleat and ended, by virtue of which said demise the same *Josias S.* into the tenements aforesaid entred, and was thereof possessed, until the said *Isaac* afterwards, (to wit) on the said second day of *November* in the 13th year aforesaid with force and arms, &c. into the tenements aforesaid, with the appurtenances, in and upon the possession of him the said *Josias* thereof entred, and him from his farm aforesaid, his term aforesaid therein not yet ended, ejected, expelled and amoved: Therefore we command you that you cause the said *Josias S.* to have his Possession aforesaid of his term aforesaid yet to come of and in the tenements aforesaid, with the appurtenances, and how you should execute this our writ certify to us on the morrow of the Holy *Trinity*, wheresoever we shall then be in *England*; and the said *Josias S.* ought to recover his damages by reason of the trespass and ejectment aforesaid; but because our court before us do not know what damages the said *Josias S.* hath sustained on the account aforesaid; we also command you that by the oath of 12 good and lawful men of your bailiwick, you diligently inquire what damages the said *Josias* hath sustained, as well by reason of the premisses aforesaid, as for his costs and charges by him about his suit in this behalf expended; and the inquisition which you shall thereof make, certify likewise to us on the same day, wheresoever we shall then be in *England* under your seal, and the seals of those by whose oath you shall make that inquisition; and have then the names of the jurors and this writ. Witness *J. Holt*, Knt. at *Westminster* the 15th day of *May* in the third year of our reign.

An inquiry in an action *quidam*.

GEORGE, &c. To the sheriff of *Middlesex*, greeting: Whereas *Humphrey H.* late of *London*, doctor of laws, and *William Savage* late of *London* aforesaid, professor of divinity, were attached to be in our court before our justices at *Westminster*, to answer to *Edward B.* Bart. one of our justices assigned to preserve our peace in and for the county of *Kent*, and also to hear and determine divers felonies in the same county committed, who as well for us as for himself in this behalf prosecuted in a plea, that whereas, &c. and had damages to the value of 20*l.* as it is said; and it is in such manner proceeded in our same court that the said *Edward B.* ought to recover his damages by reason of the premisses aforesaid, against the said *Humphrey* and *William*; but because it is not known what damages the said *Edward* hath sustained by reason of the premisses, we command you, that by the oath of 12 good and lawful men of your bailiwick you diligently inquire what damages the same *Edward* hath sustained, as well by reason of premisses aforesaid as for his costs and charges by him about his suit in this behalf expended; and the inquisition which you shall thereof make certify to our justices at *Westminster* from the day under your seal, and the seals of those by whose oath you shall take that inquisition, and have there the names of those by whose oath you shall take that inquisition and this writ. Witness *P. King*, Knt. at *Westminster* the 12th day of *July* in the 6th year of our reign.

Cooke.

A writ of inquiry of the value of lands descended to an heir.

ANNE, &c. To the sheriff of *Lincoln*, greeting: Whereas *Elizabeth F.* widow, our debtor, in our court before the Barons of our *Exchequer* at *Westminster*, lately, to wit, in this same term, by the consideration of the same court, hath recovered against *John W.* the son and heir of *John W.* late of *London*, Furrier, otherwise called *J. W.* of the city of *London*, Furrier, as well a certain debt of 800*l.* as 56*s.* 8*d.* which to the same *Elizabeth* in our same court were adjudged for her damages, which she had by reason of the detention of that debt whereof he is convicted, of one messuage, three cottages, and three acres of meadow in *B. F.* and *S.* in your county, which

which were the lands and tenements of the said *J. W.* the father at the time of his death in fee-simple, execution nevertheless of the judgment aforesaid yet remains to be made: And therefore we command you, that by the oath of good and lawful men of your county you diligently inquire how much those tenements with the appurtenances are worth by the year in all issues, besides reprises; and by that inquisition the same tenements with the appurtenances to the same *E.* without delay, according to the true value of the same, deliver, to hold to the same *E.* until she shall thereout levy the debt and damages aforesaid; and how you shall execute this our command certify to the barons of our Exchequer at *Westminster* from the day of *Easter* in 15 days next following, under your seal and the seals of those by whose oath you shall make that inquisition; And have there the names of those by whose oath you shall make that inquisition, and this writ. Witness, &c.

And upon this the said *E. F.* prays judgment for her debt aforesaid against the said *J. W.* Judgment of on the said tenements with the appurtenances in *B. F.* and *S.* in the county of *Lincoln* to be lands descend- levied: Therefore it is considered by the barons here, that the said *E.* do recover against the said *J. W.* her debt aforesaid, and her damages by reason of the detention of that debt; to 56 s. 8 d. to the same *E.* by the court here with her assent adjudged; and the said *J. W.* in mercy: And because it is not known how much the tenements aforesaid are worth by the year in all issues, besides reprises, therefore the sheriff of *Lincoln* aforesaid is commanded; that by the oath of good and lawful men of his bailiwick he diligently inquire how much the same tenements with the appurtenances in his county are worth by the year in all issues, besides reprises; and by that inquisition by the sheriff so made, the same tenements with the appurtenances, according to the true value of the same, to the same *E.* without delay deliver, to hold to the same *E.* until she shall levy the debt and damages aforesaid out of the said tenements with the appurtenances; and how, &c. let the same sheriff certify here from the day next following under his seal and the seals, &c. The same day is given to the parties aforesaid here, &c.

ANNE, &c. To the sheriffs of *London*, greeting: Whereas *R. R.* lately in the court An inquiry of the Lord *William* the Third, late King of *England*, &c. before *E. N. Knt. J. P.* for the mesne profits on as- and *J. B. Knt.* then the justices of the said late King of the Bench at *Westminster*, firmance of a judgment in from the day of *Easter* in fifteen days in *Easter* term in the thirteenth year of the judgment in ejectment. reign of the said late King, by the writ of the said late King, and by the judgment of the said court, recovered against *Henry J.* late of, &c. *J. B.* late of, &c. and *R. W.* late of, &c. his term yet to come of and in three messuages, three cottages, 10 acres of land, 10 acres of meadow, and 20 acres of pasture with the appurtenances in *B.* which *J. R.* and *Rebecca* his wife, and *S. C.* and *Margaret* his wife, on the 4th day of *March* in the 12th year of the reign of the said late King, at *B.* aforesaid, to the same *R.* had demised; To have and to hold the tenements aforesaid with the appurtenances to the same *R.* and his assigns from the 27th day of *February* then last past unto the full end and term of three years from thence next ensuing and fully to be compleat and ended, whereof the same *H. J.* and *R.* are convicted, as by the inspection of the record and proceedings thereof, which the said late King by virtue of the writ of error of the said late King by the said *H. J.* and *R.* of and upon the premises prosecuted for certain causes of error lately caused to be brought into our court before us, appears to us on record: And whereas also afterwards, to wit, from the day of *Easter* in three weeks in this same *Easter* term in the first year of our reign, because the said *H. J.* and *R.* did not prosecute their writ of error in our court before us, it was considered, that the said *R.* should have his execution of the judgment aforesaid, as it likewise appears to us on record; and the said *Richard*, according to the form of the statute thereof lately made and provided, ought to recover his damages for 16 & 17 C. 2. the mesne profits of the tenements aforesaid with the appurtenances, and for waste in the same c. 8. § 4. committed after the rendition of the judgment aforesaid: But because our court before us do not know to how much the issues and profits of the tenements aforesaid with the appurtenances from the said day of the rendition of the judgment aforesaid, to wit, from the day of *Easter* in 15 days in *Easter* term in the 13th year of the reign of the said late King, until the said three weeks of *Easter* in this present *Easter* term in the first year of our reign above-said do amount, and what damages the said *R.* hath sustained by reason of any waste in the same tenements with the appurtenances after the said day of the rendition of that judgment until the said three weeks of *Easter* committed, we command you, that by good and lawful men of your bailiwick you diligently inquire to how much the issues and profits of the tenements aforesaid with the appurtenances from the said day of the rendition of the judgment aforesaid until the same three weeks of *Easter* do amount, and also what damages the same *R.* hath sustained by reason of any waste in the same tenements with the appurtenances from the said day of the rendition of the judgment aforesaid until the said three weeks of *Easter* committed; and the inquisition which you shall thereof take send to us on the Octave of the Holy Trinity,

Trinity, wheresoever we shall then be in *England*, under your seal and the seals of those by whose oath you shall take that inquisition, together with this writ. Witness *J. Holt*, Knt. at *Westminster* 18th day of *May* in the first year of our reign.

Holt. Coleman.

An inquiry of damages in trespass where the defendant pleads Not guilty to part, and justifies as to the residue; and judgment for the plaintiff on demurrer.

William, &c. To the sheriff of *N.* greeting: Whereas *W. L.* in our court before us at *Westminster*, by bill, without our writ impleaded *W. S.* and *F. A.* being in the custody of the marshal of our *Marshalsey* before us, for this, that they on the 20th day of *M.* in the third year of our reign, with force and arms, &c. on him the said plaintiff, at *D.* in the county aforesaid, did make an assault, and him the said plaintiff did then and there beat, wound, abuse, take and imprison, and him in prison there a long time, to wit, for the space of 20 hours then next following, without any reasonable and lawful cause, and against the law and custom of this kingdom of *England*, and until the same plaintiff paid a fine of 5*s.* 6*d.* to the same defendants to have his delivery from thence, did detain; and other outrages on him then and there did commit, against our peace, and to the damage of him the said plaintiff 40*l.* as he said: And therefore he then produced the suit, &c. And it is in such manner proceeded in our same court before us, that the said plaintiff ought to recover his damages against the said defendant by reason of the trespass, assault, imprisonment, and the detention of the said plaintiff for the space of half an hour until the said plaintiff paid 5*s.* 6*d.* to the said defendants: But because our court before us do not know what damages the said plaintiff hath sustained by reason thereof, therefore we command you, that by good and lawful men of your bailiwick you diligently inquire what damages the said plaintiff hath sustained, as well by reason of the trespass and assault aforesaid, and the detention of the said plaintiff for the space of half an hour until the said plaintiff paid 5*s.* 6*d.* to the same defendants, as for his costs and charges by him about his suit in this behalf expended; and the inquisition, &c.

An inquiry on the 8 & 9 W. 3. c. 10. to prevent frivolous and vexatious suits.

William, &c. To the sheriff of *O.* greeting: Whereas *A. B.* lately in our court, to wit, in *Michaelmas* term last past before us at *Westminster*, by bill, without our writ, and by the judgment of the same court, recovered against *C. D.* otherwise called, &c. 100*l.* debt, and also 53*s.* for his damages which he sustained as well by reason of the detention of that debt, as for his costs and charges by him about his suit in that behalf expended, whereof he is convicted, as it appears to us on record: And whereas that judgment in form aforesaid obtained was had and obtained on a certain writing obligatory in the penal sum of the said 100*l.* debt, conditioned for the performance of certain covenants and agreements mentioned and contained in a certain indenture bearing date, &c. made between him the said *A. B.* by the name of, &c. on the one part, and the said *C. D.* by the name of, &c. on the other part, by and on the part of him the said *C. D.* to be done and performed; and the same *A. B.* according to the form of the statute in such case lately made and provided, with an intent to recover his damages by reason of his the said *C. D.*'s breach and non-performance of the covenants in the same indenture contained, on the part of him the said *C. D.* to be performed, hath assigned on the roll of the said judgment for breach of those covenants that, &c. Therefore, according to the form of that statute, we command you, that you cause to come before our justices assigned to take assises in your county on to wit, the day of 12 free and lawful men of your bailiwick, to inquire diligently on their oath of the truth of the premises, and to assess what damages the same *A. B.* hath sustained as well by reason of his the said *C. D.*'s non-performance of the several covenants aforesaid, as for his costs and charges by him in this behalf expended: We likewise command our said justices of assise, that they certify the inquisition before them taken to us at *Westminster* aforesaid on together with the names of those by whose oath that inquisition shall be taken; And have there this writ. Witness, &c.

William,

William, &c. To the sheriff of *Cambridge*, greeting: Whereas *Samuel W.* late of *Cambridge* in your county, stationer, otherwise called, &c. was summoned to be in our court before our justices at *Westminster* to answer to *Joseph B. S. T. P.* master or warden of the college or house commonly called *Peterhouse* in the university of *Cambridge*, and the fellows and scholars of the bishop of *Ely* of the same college, in a plea of debt 100 *l.* which the same master, fellows and scholars demanded of the same *Samuel* on a certain writing obligatory, with a condition to be void on the performance of the several articles, covenants and agreements of a certain indenture in such condition mentioned on the part of the said *S. W.* to be performed: And thereupon it was in such manner proceeded in our same court of the bench that the said master or warden, and fellows and scholars should recover against the said *S.* their debt aforesaid, and their damages, by reason of the detention of that debt, to 50 *s.* and that the said *Samuel* should be in mercy, &c. And because the said master or warden, and fellows and scholars aforesaid, in replying in our same court in the plea aforesaid said, that the said *S.* his covenants between them made, according to the form and effect of the said indenture between the said master or warden, and fellows and scholars aforesaid, by the name of the Rev. *J. B. S. T. P.* master or warden of the college or house, commonly called *Peterhouse* in the university of *Cambridge*, and the fellows and scholars of the bishop of *Ely* of the same college on the one part, and the said *S.* by the name of *S. W.* of *Cambridge* in the county of *Cambridge*, stationer, on the other part made, had not kept but had broke; for that on the first day of *August* in the 8th year of our reign, a certain orchard or garden-plot in the indenture aforesaid mentioned, was not stored, set and planted with good fruit-trees; and that on the said first day of *August* in the 8th year aforesaid, a certain tenement in the indenture aforesaid likewise mentioned was ruinous and in decay for want of repairing the walls, cieling, partitions, floors, ground-felling and tiling of the same, whereby the timber thereto belonging, by reason of the rain thereon falling, became decayed and rotten; and also that the said *S.* the said orchard or garden-plot so not stored, set and planted with good fruit-trees permitted to remain, and to the same master or warden, and fellows and scholars aforesaid at the end of the said term left; and likewise that the said *S.* the said tenement so as aforesaid ruinous and in decay for want of repairing the walls, cieling, partitions, floors, ground-felling and tiling of the same, and the said timber so as aforesaid ruinous, decayed and rotten, permitted to remain; and to the same master or warden, and fellows and scholars aforesaid at the end of the said term also left, against the form and effect of the indenture aforesaid: Therefore we command you that, according to the form of the statute in such case lately made and provided, you cause to come before our justices assigned to take assises in your county on *Thursday*, to wit, the 11th day of *August* at the castle of *Cambridge* in your county, 12 free and lawful men of your bailiwick to inquire of the truth of the premises in the replication of them the said master or warden, and fellows and scholars aforesaid mentioned, and to assess what damages the said *Joseph* and the fellows and scholars aforesaid have sustained by reason of the breach of the several covenants aforesaid; and that you have on that day before the said justices this writ: We likewise command our said justices of assise that they certify the inquisition before them taken, to our justices of the bench at *Westminster*, from the day of *St. Michael* in three weeks, together with this writ. Witness, &c.

William, &c. To the sheriff of *Middlesex*, greeting: Whereas *E. P.* widow, executrix of the last will and testament of *M. P.* her late husband, deceased, lately also one of the clerks of *W. T.* Esq; one of the prothonotaries of our court of the bench lately in our court before us at *Westminster*, to wit, in *Trinity* term last past, impleaded *R. D.* then being in the custody of the marshal of our *Marshalsey* before us, for this, to wit, (10 fault, and before the end of the declaration) and therefore she then produced the suit, &c. And the same *Elizabeth* produced then in court the letters testamentary of the said *M.* aforesaid, whereby it sufficiently appeared to our court that the said *Elizabeth* was executrix of that will, and thereof had the administration, &c. and it was in such manner proceeded in our same court before us, that it was considered by the court aforesaid, that the said *Elizabeth* ought to recover her damages which she had sustained by reason of the premises against the

8 & 9 W. 3.
c. 10.

the said *R.* and because it was not known what damages the said *E.* had sustained by reason of the premisses, the sheriff was commanded that by the oath of 12 good and lawful men of his county he should diligently inquire what damages the said *E.* had sustained, as well by reason of the premisses, as for her costs and charges by her about her suit in that behalf expended; and the inquisition which he should thereof take he should certify before us at *Westminster*, on *Monday* next after three weeks of *St. Michael*, under his seal, and the seals of those by whose oath he should take that inquisition; and the same day was given to the said *E.* before us at *Westminster*, as by the record and proceedings thereof in our said court before us remaining manifestly appears; the inquisition nevertheless of the damages aforesaid yet remains to be made; and the said *E.* is dead, as by the suggestion of *R. B.* widow, administratrix of all and singular the goods and chattels, rights and credits which belonged to the said *M.* at the time of his death by the same *E.* unadministred, we have in our court before us understood: And whereon at the prosecution of the said *R.* in our court before us, by our writ of *scire facias* issuing out of that court, you was lately commanded, that by good and lawful men of your bailiwick you should give notice to the said *R. D.* that he should be before us at *Westminster* on *Friday* the morrow of *All Souls*, to shew if he had or could say any thing for himself why the said *R.* ought not to recover her damages by reason of the premisses against the said *R. D.* according to the form and effect of the statute in such case lately made and provided, if he should think fit; on which *Friday* the morrow of *All Souls* before us at *Westminster* came the said *R.* in her proper person; and you the said sheriff on that day returned to us, that by *T. S.* and *J. S.* good and lawful men of your bailiwick, you had given notice to the said *R.* that he should be before us on the day and place aforesaid, to shew in form aforesaid, if he thought fit, as by the writ aforesaid you was commanded; which said *R.* so warned on the same day being solemnly called, did not come, but made default: Wherefore in our same court before us it is considered, that the said *R.* ought to recover her damages by reason of the premisses against the said *R. D.* But because it is not known what damages the said *R.* hath sustained by reason of the premisses aforesaid, therefore we command you, that by the oath of 12 good and lawful men of your bailiwick you diligently inquire what damages the said *R.* hath sustained, as well by reason of the premisses aforesaid, as for her costs and charges by her about her suit in this behalf expended; and the inquisition which you shall thereof take, certify to us at *Westminster* on _____ day next after _____ under your seal, and the seals of those by whose oath you shall take that inquisition, together with this writ. Witness, &c.

On a nonfuir
in replevin to
inquire how
much rent was
due, and the
value of the
goods distrain-
ed.

17 C. 2. c. 7.

Whereupon the said *Samuel R.* being solemnly called, doth not come, nor further prosecute his writ aforesaid; therefore it is considered that the said *Samuel* do take nothing by his writ aforesaid, but be in mercy for his false plaint thereof; and that the said *James P.* may go thereof without day, &c. And upon this the said *James*, according to the form of the statute in such case lately made and provided, prays the writ of the Lady the now Queen to be directed to the sheriff of the county aforesaid to inquire of the arrears of the rent aforesaid, and of the value of the goods and chattels aforesaid above specified, and to him it is granted; Therefore the sheriff of the county aforesaid is commanded, that, according to the form of the statute aforesaid, by the oath of 12 good and lawful men of his county he diligently inquire how much of the yearly rent aforesaid, at the said time of the taking and distraining of the goods and chattels aforesaid was in arrear and unpaid, and how much the goods and chattels aforesaid, so as aforesaid taken and distrained, were worth, according to the true value of the same; and the inquisition which, &c. let the sheriff certify here from the day of *St. Michael* in three weeks, wheresoever, &c. under his seal, and the seals, &c. On which day here comes the said *James P.* by his attorney aforesaid; and the sheriff, to wit, *A. B. Esq;* now returns here a certain inquisition taken before him at _____ in the county aforesaid on _____ day the _____ last past, by the oath of 12 good and lawful men, whereby it is found, that at the time of the taking and distress of the goods and chattels aforesaid, to wit, on the _____ day of _____ in the year _____ the yearly rent aforesaid, in the avowry aforesaid mentioned to be due to the same *James*, was in arrear and unpaid, and that the goods and chattels aforesaid were worth, according to the true value of the same, 100*l.* Therefore it is considered that the said *James* do recover against the said *Samuel* the said 100*l.* of the rent aforesaid, being by the inquisition aforesaid, in form aforesaid found, and his damages by reason of the premisses to be by the court of the Lady the Queen now here to the same *James* at his request for his costs and charges by him about his suit in this behalf expended, according to the form of the statute thereof lately made and provided adjudged, which said value, costs and charges aforesaid, amount in the whole, &c.

ANNE, &c. To the sheriffs of *London*, greeting: Whereas *Richard D.* late of *London* in your county, merchant, was attached to be in our court before us to answer to *J. B.* and *G. C.* in a plea why whereas the said *Richard* on the 30th day of *April* in the 10th year of our reign at *London* aforesaid, in the parish of *St. Mary le Bow* in the ward of *Cheape*, was indebted to the same *John* and *G.* in 400 l. of lawful money of *Great Britain*, for so much money by them the same *John* and *G.* for the said *Richard*, and at the special instance and request of him the said *Richard* before then expended, laid out and paid (and so on the declaration so) hath altogether refused, and yet doth refuse, to the damage of them the said *John* and *George* 400 l. as it is said; and it is in such manner proceeded in our same court before us, that it is considered by the same court that the said *J.* and *G.* ought to recover their damages by reason of the premisses against the said *Richard*: But because our court before us do not know what damages the said *John* and *George* have sustained by reason of the premisses aforesaid, therefore we command you, that by the oath of 12 good and lawful men of your bailiwick you diligently inquire what damages the said *John* and *George* have sustained, as well by reason of the premisses, as for their costs and charges by them about their suit in this behalf expended, and the inquisition which you shall thereof take send to us, from the day of *St. Martin* in 15 days, wheresoever we shall then be in *England*, under your seals, and the seals of those by whose oath you shall take that inquisition, together with this writ. Witness *Thomas Parker*, Knt. at *Westminster* the 23d day of *October* in the 10th year of our reign.

Latitat.

Latitat.

The form of a *latitat.* **W**ILLIAM, &c. To the sheriff of *Sussex*, greeting: Whereas we lately commanded our sheriff of *Middlesex* that he should take *J. C.* and *R. R.* if they should be found in his bailiwick, and them safely keep, so that he might have their bodies before us at *Westminster* on a certain day now past, to answer to *W. B.* in a plea of trespass; and also to the bill of him the said *William* against the said *John* for 10*l.* debt, according to the custom of our court, before us to be exhibited; and our said sheriff of *Middlesex* on that day returned to us that the said *J.* and *R.* are not found in his bailiwick: Whereupon on the part of the said *William* in our court before us, it is sufficiently testified that the said *John* and *Richard* run up and down and secret themselves in your county; therefore we command you that you take them if they shall be found in your bailiwick, and them safely keep, so that you may have their bodies before us at *Westminster* on *Wednesday* next after 15 days of *St. Martin*, to answer to the said *William* in the plea and bill aforesaid; And have there then this writ. Witness, &c.

Acetiam.

See bill of *Middlesex*, for the several forms of the *acetiam.*

An alias. The *pluries* is the same, only often instead of *before.* **A**NNE, &c. To the sheriff of *Northampton*, greeting: We command you, as we have before commanded you, that you take *Charles D.* if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us at *Westminster* on day next after to answer to *George E.* in a plea of trespass, and also to the bill, &c. and have, &c.

If in debt, for 20*l.* debt, according to the custom, &c.

Case, for 40*l.* upon promise, or for non-performance of a promise and assumption to the damage of 40*l.*

Trover, for the conversion of goods to the damage of 40*l.*

Covenant, in a plea of breach of covenant, to the damage of the plaintiff 30*l.*

Affidavit to obtain a special *acetiam.* Pract. Reg. 13. **J**OHAN D. of *W.* in the county of *S.* clerk, maketh oath, that on *Thursday* the day of last past, he this deponent going to view whether the tithe-hay on the lands of *John H.* of *W.* aforesaid were ready to be set forth, the said *John H.* did then in the said field, without any reasonable cause, in a violent manner assault, beat and throw this deponent on the ground, this deponent making no opposition or resistance against the said *H.* but this deponent being rescued by some persons present from the said *H.* the said *H.* did again, as soon as he got loose from the persons that rescued this deponent, a second time assault, throw down, beat and kick this deponent several times about the head and body, so that the blood gushed out at his ears, which occasioned this deponent the loss of his speech and hearing for some time as to render him incapable of performing his duty in the aforesaid parish, he being minister of the same: And this deponent further saith, That he the said *H.* hath often declared that it was no sin for any man to kill or destroy this deponent.

John Doddridge.

Sworn *October* 24, 1704.

before me

H. Gould.

The judge's order thereupon.

Let a *latitat* be issued forth against *John Hart*, with an *acetiam* for 20*l.* at the suit of *J. D.* upon this affidavit.

H. Gould.

Dated *October* 24, 1704.

Mandamus.

Mandamus.

A NNE, &c. To the reverend *John C.* Knt. and doctor of laws, of the most A *mandamus*
 reverend father in Christ *Thomas* by divine providence Lord archbishop of *Can-* to the judge
terbury, primate and metropolitan of all *England*, to whom all and all manner of the spiritual
 of jurisdiction whatsoever which to the bishop of *Chichester*, the see being full, doth be- court to ad-
 long, the said see being now vacant is notoriously known to belong in and thro' the whole minister the
 archdeanary of *Lewis* in the diocese of *Chichester* aforesaid, vicar in spirituals general, and oath to the
 official principal lawfully constituted, or to *Thomas W.* prebendary, surrogate of the said churchwar-
 reverend *John C.* greeting: Whereas *John R.* and *Gabriel G.* into the office and place of dens.
 wardens of the parochial church of *New Shoreham* in the county of *Sussex*, according to the
 ancient custom of the same parish were duly nominated and chosen on *Tuesday* in *Easter*
 week last past for the year ensuing; and altho' the same *John* and *Gabriel* have often offered
 to take their corporal oath before you as churchwardens, and into the office aforesaid to
 be by you admitted have often required: Nevertheless you the said *John C.* (to whom it
 doth of right belong to administer such oath) have refused to receive that oath from the
 same *John* and *Gabriel*, to the great damage and grievance of them the said *John* and
Gabriel, and to the manifest prejudice of their estate, as by the complaint of the said *John*
 and *Gabriel* we have understood: We therefore being willing that due and speedy justice
 be done to the said *John* and *Gabriel* in this behalf, as is reasonable, command you, that the
 oath which churchwardens are accustomed to take, to the said *John* and *Gabriel* you do
 administer, and them into the office of wardens of the parochial church of *New Shoreham*
 aforesaid you do admit, and cause to be sworn, or signify to us cause to the contrary thereof,
 left in your default complaint should come to us repeated; and how you shall execute this
 our command certify to us at *Westminster* on *Monday* next after three weeks of *St. Michael*,
 returning to us this our writ. Witness *J. Holt*, Knt. at *Westminster* 13th day of *July* in the
 8th year of our reign.

I *Thomas W.* prebendary, surrogate to the reverend *John C.* within mentioned, to the The return:
 most serene Lady the now Queen do most humbly certify, that the within named *John R.*
 and *G. G.* were not nominated or elected into the place and office of wardens of the
 parochial church of *New Shoreham*, nor was either of them the said *John* and *G.* nominated
 or elected to the place and office of one of the wardens of the same parochial church, in
 manner and form as by the writ within written is supposed, in the county of *Sussex* within
 mentioned; and for that reason the oath which the wardens of the parochial church aforesaid
 have been hitherto accustomed to take, to them, or either of them, I have not administred,
 nor can I administer, neither have I admitted, nor can I admit, the said *John* and *Gabriel*,
 or either of them, into the said place and office of wardens of the parochial church afore-
 said, as by that writ I am within commanded, &c.

A mandamus
to the judge
of a spiritual
court to re-
store a proctor.

William and Mary, &c. To Henry N. doctor of laws, of the reverend father in Christ Henry by divine permission Lord bishop of London, vicar general in spirituals, and also of the consistorial court of the bishop of London official principal lawfully constituted, greeting: Whereas Jeffery L. into the office and place of one of the proctors of the consistorial court of the bishop of London aforesaid was duly admitted and sworn, and hath in that place and office carried and behaved himself well: You nevertheless the said Henry N. the premises lightly regarding, the said J. L. unduly, and without any reasonable cause, from that place and office have unjustly removed, in contempt of us, and to the no small damage and grievance of him the said J. and to the manifest injury of his estate, as by his complaint we have understood: We therefore being willing that due and speedy justice be done to the said J. L. in this behalf as is reasonable, command you, as we have often commanded you, that immediately after the receipt of this writ the said J. L. into the said place and office of proctor general of the consistorial court of the bishop of London aforesaid you do restore, or cause to be restored, with all liberties, privileges, preheminences and commodities to that place and office belonging and appertaining, or signify to us cause to the contrary, lest in your default complaint should come to us repeated; and how you shall execute this our command certify to us at Westminster on Wednesday on the morrow of St. Martin, returning to us this our writ, and this by no means omit, under the penalty of 80*l.* Witness J. Holt, Knt. at Westminster 7th day of November in the second year of our reign.

By the court.

Astry.

The return.

The answer of the within named Henry N. doctor of laws, of the reverend father in Christ Henry by divine permission Lord bishop of London, vicar general in spirituals, and also of the consistorial court of the bishop of London official principal to this writ, appears in a certain schedule to this writ annexed.

Henry Newton.

I Henry N. doctor of laws, of the reverend father in Christ Henry by divine permission Lord bishop of London, vicar general in spirituals, and also of the consistorial court of the bishop of London official principal, by virtue of the writ to me directed, and to this schedule annexed, to the most serene Lord and Lady the now King and Queen, on the day and place in the writ aforesaid contained, do most humbly certify, that the consistorial court of the bishop of London in the writ aforesaid mentioned is an ancient court, and the supreme consistory of the episcopal see of London: And I do farther most humbly certify, that the said consistorial court of the bishop of London, of Canterbury of the arches, London, and also the prerogative court of Canterbury, and the high court of Admiralty of England, and other ecclesiastical courts, are held, and have been long held, in a certain inn called *Doctors Commons*, situate in the parish of St. Benedict near *Paul's Wharf* in the ward of *Castle Baynard*, London, in which said inn the judges of the courts aforesaid, and also very many doctors of law, advocates, proctors, and other officers attending the said courts, constantly have resided, and yet do reside, for the exercise of their offices there respectively, and that the expences in and about the courts of justice, and other publick places in and about the inn aforesaid, and other publick necessary charges concerning the judges, advocates, proctors and officers aforesaid are sustained, and always hitherto have been accustomed to be sustained, at the costs of the judges, advocates, proctors, and other officers and ministers of the same courts, who have come to, and have been accustomed to come to the said courts of justice and other publick places to transact their business; and on that account, as often as it was necessary, the said judges, advocates, proctors, and other officers and ministers of the courts aforesaid, have assessed on themselves and levied, and have been accustomed to assess and levy, certain rates or taxes to defray such charges and expences; and that the said Jeffery being assessed to 10*s.* on him to defray the publick charges and expences aforesaid in and about the courts of justice, and other publick places aforesaid, and other publick necessary charges concerning the judges, advocates, proctors and officers aforesaid so as aforesaid taxed, had denied to pay the same: Wherefore I Henry N. being judge of the said consistorial court

of the bishop of *London*, and sitting in the judgment seat in the inn aforesaid, on the 5th day of *July* in the second year of the reign of the within written Lord and Lady the now King and Queen, for the cause aforesaid did deny audience to the said *Jeffery L.* in a certain cause between *Mary N.* otherwise *H.* against *Thomas H.* in a cause of nullity of marriage, by reason of the tender age of her the said *Mary*, audience of me the judge then and there in that cause requiring, until he should submit himself in the premisses, or that court should otherwise order therein; and the said *Jeffery* from the place or office of one of the proctors of the same court I have not otherwise or in other manner removed: And I do farther certify, that the bishop of *London* for the time being is, and for time immemorial hath been, supreme judge of the consistorial court of *London* aforesaid, and hath heard and determined, and hath been accustomed to hear and determine, all appeals or complaints whatsoever by any the officers, proctors or ministers whatever of the court aforesaid, to the bishop of *London* aforesaid brought, and also hath reformed, corrected, reversed and restored, and to reform, correct, reverse and restore, for all the said time hath been accustomed, all grievances whatever by the judge of the court aforesaid, on any the officers, proctors or ministers whatever of that court unduly committed or inflicted (as justice required it) and that the said *Jeffery* hath not hitherto brought any complaint in this behalf to the said bishop of *London*, nor submitted himself to the court aforesaid.

Mittimus.

Mittimus.

Mittimus to the justices of the C. B. of dedimus for the admission of a guardian for the plaintiff, and a return thereof into the Chancery.

CHARLES, &c. To our justices of the Bench, greeting: The tenors of our certain writ of *dedimus potestatem* to our trusty and beloved *Edward Herbert W. Knt.* and our beloved *Richard H. Esq;* *George E. Esq;* and *William N. Gent.* directed, of and for the admission of a guardian or guardians of *J. O. Gent.* being under age, to prosecute and defend a plea which is before you by our writ between the said *John* and *William S. Esq;* in a plea, why whereas by the common council of our kingdom of *England* it is provided, that it shall not be lawful for any person to commit waste, sale or destruction of lands, houses, woods or gardens, which he holds by the law of *England*, the same *William* of woods, which he holds by the law of *England* of the inheritance of the said *John* in *Kingsborne*, hath committed to the said *John* waste, sale and destruction, to the disinheritation of him the said *John*, and against the form of the provision aforesaid, as it is said, of the return or manner of the execution of the same writ, and also of a certain schedule to the same writ annexed, sent to us into our Chancery, and remaining on the files of our same Chancery, we send to you inclosed in these presents, and command you, that the tenors aforesaid being inspected, you farther cause to be done for the admission of such guardian or guardians, according to the law and custom of our kingdom of *England*. Witness Ourselves at *Westminster* 25th *February* in the third year of our reign.

The dedimus.

CHARLES, &c. To our trusty and beloved *Edward Herbert W. Knt.* and to our beloved *R. H. Esq;* *G. E. Esq;* and *W. N. Gent.* Know ye, that we give to you, or any two of you, power to admit a guardian of *John O.* being under age, as it is said, to prosecute and defend a plea which is before our justices of the Bench, between the said *John* and *William S. Esq;* in a plea, why whereas by the common council of our kingdom of *England* it is provided, that it shall not be lawful for any person to commit waste, sale or destruction of lands, houses, woods or gardens, which he holds by the law of *England*, the same *William* of woods which he holds by the law of *England* of the inheritance of the said *John* in *Kingsborne* hath committed to the said *John* waste, sale and destruction, to the disinheritation of him the said *John*, and against the form of the provision aforesaid: Therefore we command you, or two of you, that when you have admitted that guardian, you certify to us the name of the same guardian under your or two of your seals, returning to us this writ. Witness Ourselves at *Westminster* 17th day of *December* in the second year of our reign. *Reynolds.* By the Lord chancellor of *England*, on the petition of the plaintiff *J. C.*

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The execution of this commission appears in a certain schedule to this writ annexed.

Richard H. William N. received 6 s. at *Colclough*. By virtue of the writ of the Lord The King to this schedule annexed, to us and others directed, on the 20th day of *January* in the second year of the reign of the said Lord the King: We whose names are subscribed, admitted *J. O. Esq.* the father of the said *John O. Gent.* in the writ aforesaid named guardian and *procbein amy* of him the said *John*, being under age, to prosecute and defend the plea which is before the justices of the said Lord the King of the Bench, by the writ of the Lord the King, between the said *John*, plaintiff, and *W. S. Esq.* defendant, in a plea of waste, according to the tenor of the same writ. In witness whereof we have set our seals to this schedule the day and year aforesaid, &c.

Richard Hall. William Noyes.

JAMES, &c. To our trusty and beloved *John L. Esq.* our second justice assigned to hold pleas before us in our kingdom of *Ireland*, greeting: Whereas by a certain inquisition taken for our most dear Brother *Charles the Second*, late King of *England, Scotland, France and Ireland*, at a special sessions of the peace held at *B.* in and for *Queens county* on *Saturday*, to wit, the 25th day of *September* in the 32d year of his reign, before *Robert F. Esq.* one of his privy council in *Ireland*, *J. W. Esq.* *J. G. Esq.* *T. P. Esq.* *R. H. Esq.* *W. G. Esq.* and *A. C. Esq.* his justices and commissioners assigned to preserve the peace in and for *Queens county* aforesaid; and also to inquire of all and singular treasons and felonies, and likewise to hear and determine all and singular unlawful assemblies, entries with force, detentions, extortions, oppressions, crimes, contempts, trespasses, and other misdemeanors and offences whatsoever, except treasons and felonies against his peace committed or to be committed, by virtue of letters patent of commission under his great seal of his kingdom of *Ireland*, to them and others therefore directed, bearing date at *Dublin* the 15th day of *March* in the 32d year of his reign, by the oath of good and lawful men of the county aforesaid, it is presented that *Edward M. of G.* in *Queens county* aforesaid, *Esq.* *H. B. of S.* in the said county, *Gent.* *J. B. of C.* in the said county, *Gent.* *T. N. the elder*, of *B.* in the county aforesaid, *Gent.* *T. N. the younger*, of the same in the same county, *Gent.* *P. L. of S.* in the county aforesaid, butcher, and *M. B. of E.* in the county aforesaid, *Gent.* other malefactors and disturbers of his peace, being taken and associated to them in a warlike manner arrayed, to the number of 100 persons, whose names to the jurors aforesaid are unknown, on the 7th day of *September* in the 32d year of his reign, at *T.* in the county aforesaid riotously and routously assembled themselves together; and so assembled then and there with force and arms, to wit, staves, swords, knives, prongs, stones and other arms defensive and invasive into one messuage, with the appurtenances and 60 acres of land, being the freehold of *Elizabeth W.* widow, on the peaceful possession of the said *E. W.* then and there with the like force and arms, and with a strong hand enter'd; and also on the said 7th day of *September* in the year aforesaid, at *S.* in the county aforesaid, into one messuage, with the appurtenances and 400 acres of land, being the freehold of the said *E. W.* on the peaceful possession of the said *E. W.* with the like force and arms, and with a strong hand entred; and also on the same day and year, at *E.* in the county aforesaid, into one messuage, with the appurtenances and 150 acres of land, being the freehold of the said *E. W.* on the peaceful possession of the said *E. W.* with the like force and arms, and with a strong hand entred; and also on the said day and year at *C.* in the county aforesaid, into one messuage, with the appurtenances and 150 acres of land, being the freehold of the said *E. W.* with the like force and arms, and with a strong hand enter'd, and the said *E. W.* from her possession of the said several messuages and lands, then and there with the like force and arms, and with a strong hand expelled and disseised; and the said *E. W.* so expelled and disseised from the said several messuages, with the appurtenances and lands, with force of arms and with a strong hand, riotously and routously have kept out and yet do keep out against his peace, crown and dignity, and against the form of the statute in that case made and provided: And afterwards, to wit, on the 28th day of *September* in the year aforesaid, the said *J. W.* *J. G.* and *T. P.* in their proper persons, all and singular the messuages and lands in the inquisition aforesaid contained mentioned, with the appurtenances of the said *E.* resealed, and then restored and caused the said *E.* to have full possession and seisin thereof; which said judgment and the proceedings thereon, the said late King for certain reasons caused to be brought before him to be determined: And afterwards, to wit, on *Saturday* next after the morrow of *All Souls* in the second year of our reign, before us in the kingdom of *Ireland*,
7 S it

it was considered, that the said *E. M. H. B. &c.* by a certain jury of the country, between us and the said *E. M. H. B. &c.* were and every of them was of the premises in the indictment aforesaid above against them mentioned acquitted, and should be and go thereof without day: And it was further considered, that the said *E. M. H. B. &c.* to all and singular the premises aforesaid, in the indictment aforesaid above mentioned, which they had at the time of the caption of the inquisition aforesaid, should be restored, as by the inspection of the record and proceedings thereof, which we caused to be brought into our court before us at *Westminster* in *England*, to correct errors in the same, appears to us on record; and whereof in our same court before us at *Westminster* in *England*, on *Monday* next after the octave of *St. Martin* last past, on mature deliberation had, the judgment aforesaid so as aforesaid given we have affirmed: And we thereupon being willing that all those things which in our said court in *Ireland* are lawfully transacted and adjudged, should be carried into due and speedy execution, signify to you all the matters aforesaid above recited to be true; and also the record and proceedings aforesaid to this writ annexed we remit to you affirmed, that such execution and proceedings may be made thereon, as according to the law and custom of our kingdom of *Ireland* ought to issue and be made, notwithstanding our writ of error thereon prosecuted. *Witness, &c.*

Mittimus from the K. B. in England to the chief justice in Ireland, on a judgment affirmed in England.

William, &c. To our trusty and beloved *Richard R. Esq;* our chief justice assigned to hold pleas in our court before us in our kingdom of *Ireland*, greeting: Whereas the Lord *James* the Second, late King of *England*, sent to his trusty and well-beloved counsellor *William D. Knt.* then his chief justice assigned to hold pleas in the court of the late Lord the King, before the then King himself, in his kingdom of *Ireland*, his writ close in these words, to wit, *James* the Second, &c. To our trusty and well-beloved counsellor *William D. Knt.* our chief justice assigned to hold pleas in our court before us in our kingdom of *Ireland* (*recite all the writ, return and transcript, and conclude*) as by the inspection of the record and proceedings thereof, which we lately for certain causes of error caused to be brought into our court before us, appears to us on record: Whereupon the said *D.* as before says, that in the record and proceedings aforesaid, and also in the adjudication of the execution aforesaid, there is manifest error, alledging the errors aforesaid by him above alledged; and he prays that the judgment aforesaid for the errors aforesaid, and others, being in the record and proceedings aforesaid may be reversed, annulled and held as intirely void; and that the same *D.* to all things which he by reason of the judgment aforesaid hath lost may be restored, and that the said *Abel* to the errors aforesaid may rejoin: And thereupon the said *Abel* says, that either in the record and proceedings aforesaid, or in the rendition of the judgment aforesaid, or in the adjudication of execution upon that judgment there is no error; and he likewise prays that our court now here may proceed as well to the examination of the record and proceedings aforesaid, as of the matters aforesaid above for error assigned, and that the judgment aforesaid may be affirmed: And whereon in our court before us at *Westminster* from the day of *Easter* in three weeks, in the first year of our reign, on mature deliberation thereon had, it is considered that the judgment aforesaid, and the adjudication of execution thereon be in all things affirmed, and remain in its full force and effect; the said causes and matters above for error assigned in any wise notwithstanding: And further, by our said court before us at *Westminster* it is considered, that the said *Abel R.* do recover against the said *D.* 18 l. to the same *Abel* by our same court, according to the form of the statute in such case made and provided, adjudged for his costs, charges and damages which he hath sustained by reason of the delay of the execution of the judgment aforesaid, on pretence of the prosecution of the said writ of error, and that the said *Abel* may have thereof execution, as by the record thereof in our said court before us at *Westminster* remaining more fully appears: And we thereupon being willing that all things which in the said court of the Lord *James* the Second, late King of *England*, before the late King himself, called the King's court in his kingdom of *Ireland*, are lawfully transacted and adjudged, should be carried into due and speedy execution: Therefore we command you, that such execution and proceedings thereon be made as according to the law and custom of our kingdom of *Ireland* ought to issue and be made; the writ of error aforesaid notwithstanding. *Witness, &c.*

William, &c. To Richard P. Knt. our chief justice, and his companions, our justices *Mittimus* upon assigned to hold pleas in our court, called the King's court in our kingdom of *Ire.* a judgment in *land*, greeting: Whereas R. P. merchant, lately in our court before you the said Richard C. B. in *Ireland* affirmed P. and your companions, then our justices of the Common Bench in our kingdom of *Ireland* affirmed in K. B. there, of *Tangmore* in the county of *Wexford*, Gent. 19 l. 2 s. 1 d. for his damages which he brought by sustained as well by reason of a certain trespass on the case by him the said S. to the writ of error the same R. P. lately done, as for his costs and charges by him about his suit in that behalf to K. B. here, expended, whereof the same S. is convicted, as by the inspection of the record and proceedings thereof, which we lately caused to be brought into our court, called the King's ed. court in our kingdom of *Ireland*, for certain causes of error appears to us on record; and whereas the judgment aforesaid afterwards in our said court, called the King's court in our kingdom of *Ireland*, by the judgment of the same court was in all things affirmed: And it was farther by the same court considered, that the said R. P. should recover against the said S. 13 l. 19 s. 8 d. sterling to the same Richard, according to the form of the statute in such case made and provided, adjudged for his damages, costs and charges, which he had by reason of the delay of execution of the judgment aforesaid, on pretence of the prosecution of the said writ of error, and that the said R. P. should have thereof execution, &c. as by the record and proceedings thereof, which we caused to be brought into our court before us at *Westminster* by our writ of error of and upon the premises prosecuted, appears to us on record: And whereas because it appeared to our said court before us at *Westminster*, that the several writs of error aforesaid were vitious and defective, and insufficient in law to maintain him the said S. A. to proceed farther on the judgment aforesaid, it was considered, that the several writs of error aforesaid be quashed, vacated, and held as intirely void, and that all farther proceedings on the writs of error aforesaid cease, as by the record thereof likewise appears to us: Therefore we command you, that by our writ out of our court before us, called the King's court in our kingdom of *Ireland*, to be issued to our justices of the Common Bench in our kingdom of *Ireland* to be directed, you cause our said justices of our said court of the Common Bench in our kingdom of *Ireland* to be commanded, that they proceed to grant execution for the said R. P. against the said S. out of our said court of the Common Bench in our kingdom of *Ireland* of and upon the judgment aforesaid in the same court so as aforesaid recovered; our writs of error aforesaid, and the affirmance of the judgment aforesaid upon the said writ of error to you thereon directed, in any wise notwithstanding. Witness, &c.

William the Third, &c. To our trusty and beloved Richard P. Knt. our chief justice, and his companions assigned to hold pleas in our court, called the King's court in our kingdom of *Ireland*, greeting: Whereas Gilbert T. Esq; lately in our court, called the King's court, before us in our kingdom of *Ireland*, by the judgment of the same court, according to the form of the statute in such case lately made and provided, recovered in ejectment against Andrew R. 68 l. sterling for his costs and charges by him about his defence in a certain action of trespass and ejectment sustained by the said A. R. against the same G. T. affirmed on a writ of error lately prosecuted, as by the inspection of the record and proceedings thereof, which we in the K. B. in *England*. caused to be brought into our court before us at *Westminster* by our writ of error, appears to us on record; which said judgment afterwards in our same court before us at *Westminster* is in all things affirmed: And we thereupon being willing that all things which in our said court, called the King's court, before us in our said kingdom of *Ireland* are lawfully transacted and adjudged, should be carried into due and speedy execution: Therefore we command you, that such execution and proceedings be made on the judgment aforesaid in our said court, called the King's court in our said kingdom of *Ireland*, before you remaining for the costs and charges aforesaid, as according to the law and custom of our kingdom of *Ireland* ought to be issued and made; our writ of error aforesaid in any wise notwithstanding. Witness, &c.

Otherwise.

ANNE, &c. To our trusty and well beloved counsellor *Richard P. Knt.* our chief justice assigned to hold pleas in our court before us in our kingdom of *Ireland*, greeting: Whereas we lately commanded you by our writ of error close in these words, to wit, *Anne, &c.* To our trusty and well beloved *Richard P. Knt.* our chief justice assigned to hold pleas in our court before us in our kingdom of *Ireland*, greeting: Because in the record and proceedings, and also in the rendition of the judgment, &c. (so on the writ of error to) Witness Ourself at *Westminster* 21st day of *October* in the first year of our reign. *Cesar.* And you to that writ returned to us thus: That the record and proceedings of the plea, whereof in the writ aforesaid mention was made, with all things touching them, before us wheresoever, &c. on the day and place in the same writ contained, you sent in a certain record to the writ aforesaid annexed; and you certified to us, that you had caused notice to be given to *George H.* that he be there to proceed in the plea aforesaid, as you was by that writ commanded; which said record so by you sent to us follows in these words, to wit, Pleas before the Lord the King at the King's court of *Hillary* term in the 13th year of the reign of the Lord *William* the Third, by the grace of God, of *England, Scotland, France* and *Ireland* King, defender of the faith, &c. Witness *R. Pyne, Knt.*

Savage.

The county of *Roscommon*, to wit. **B**E it remember'd, that otherwise, to wit, in *Michaelmas* term last past before the Lord the King at the King's court came *George H.* by *J. W.* his attorney, and produced here in the court of the said Lord the King then there his certain bill against *William H. Esq;* in the custody of the marshal, &c. in a plea of trespass and ejectment; and there are pledges to prosecute, to wit, *John Doe* and *Richard Roe*; which said bill follows in these words, to wit, the county of *Roscommon*, to wit, *George H.* complains of *William H. Esq;* being in the custody of the marshal of the *Marshalsey* of the Lord the King before the King himself in a plea of trespass and ejectment, for this, to wit, that whereas *C. D. Gent.* on the first day of *October* in the year of the Lord 1701, at *Lisduffe* in *Clare* in the county of *Roscommon* aforesaid, had demised, granted and to farm let, to the said *George* 24 acres of good land of *Ireland* (plantation measure) in *Wismore*, otherwise *Wissmore*, three gueves and 41 acres of like land and measure with the appurtenances in *Wisduffe*, 4 gueves in *Clare*, situate, lying and being in the barony of *Roscommon* and county of *Roscommon* aforesaid; To have and to hold the demised premises aforesaid with the appurtenances to the same *George H.* and his assigns, from the said first day of *October* in the year aforesaid unto the full end and term of 11 years from thence next ensuing and fully to be compleat and ended: By virtue of which said demise the same *George H.* on the second day of *October* aforesaid in the year aforesaid into the demised premises aforesaid with the appurtenances entred, and was thereof possessed, until the said *William H.* afterwards, to wit, on the third day of *October* aforesaid in the year aforesaid, with force and arms, &c. into the demised premises aforesaid with the appurtenances in and upon the possession of the said *George* thereof entred, and him the said *George* from his possession aforesaid, his term therein not yet ended, ejected, expelled and amoved, and him the said *George* so thereout ejected, expelled and amoved, from his possession aforesaid thereof hath kept out, and yet doth keep out; and other outrages on him then and there committed, against the peace of the said Lord the now King, and to the damage of him the said *George* 200 l. sterling: And therefore he produces the suit, &c.

And now on this day, to wit, *Wednesday* next after the *Octave* of *St. Hillary* in this same term, until which day the said *William H.* had leave to imparl to the bill aforesaid, and then to answer, before the Lord the King at the King's court comes as well the said *George* by his attorney aforesaid, as the said *William* by *T. H.* his attorney: And the said *William* defends the force and injury when, &c. and says, that he is not guilty of the trespass and ejectment aforesaid in manner and form as the said *George* above against him complains: And of this he puts himself on the country: And the said *George* likewise, &c. Therefore let a jury thereon come before the Lord the King at the King's court on *Wednesday* next after the *Octave* of the *Purification* of the *Blessed Virgin Mary*, by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. The same day is given to the parties aforesaid there, &c. On which day before the Lord the King at the King's court come the parties aforesaid by their attorneys aforesaid; and the sheriff hath not sent thereof the writ, therefore as before let

let a jury thereon come before the Lord the King at the King's court on *Wednesday* next after 15 days of *Easter*, by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. The same day is given to the parties aforesaid there, &c. Before which day, to wit, *Wednesday* next after 15 days of *Easter*, to wit, on the 8th day of *March* last past the Lord King *William* the Third departed this life, and the Lady Queen *Anne* him the late King in the government of this kingdom of *Ireland* succeeded; and took upon herself the government of this kingdom of *Ireland*: On which day, to wit, *Wednesday* next after 15 days of *Easter* before the said Lady the Queen at the Queen's court aforesaid come the parties aforesaid by their attornies aforesaid; and the sheriff hath not sent thereof the writ; therefore as before let a jury thereon come before the Lady the Queen at the Queen's court on *Friday* next after the morrow of the Holy *Trinity*, by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. The same day is given to the parties aforesaid there, &c. On which day the jury aforesaid between the parties aforesaid was put thereof between them in respite before the Lady the Queen at the Queen's court until *Friday* next after the morrow of all *All Souls*, unless the justices of the Lady the Queen, assigned to take assises for the county of *Roscommon* aforesaid, by the form of the statute, &c. should first come on *Friday* the 10th day of *July* at *R.* in and for the county of *R.* aforesaid, &c. On which day before the said Lady the Queen at the Queen's court come the parties aforesaid by their attornies aforesaid; and the said justices of assise before whom, &c. have sent here their record before them had in these words, to wit, Afterwards the day and year within contained, before *R. C. Knt.* the chief justice of the Lady the Queen, assigned to hold pleas in the court of the said Lady the Queen of the Common Bench, assigned to hold pleas in the court of the Lady the Queen before the Queen herself in *Ireland*, and *J. M. Esq;* one of the justices of the Lady the Queen, assigned to hold pleas in the court of the said Lady the Queen before the Queen herself in *Ireland*, the justices of the said Lady the Queen, assigned to take assises in the county of *R.* by the form of the statute, &c. comes as well the within named *G.* by his attorney within written, as the within written *W.* by *J. E.* his attorney; and the jurors of that jury, whereof mention is within made, being called, some of them, to wit, *G. St. George, Bart. E. E. Bart. J. D. Esq; A. B. Esq; R. S. Esq; and D. D. Gent.* come; and on that jury are sworn; and because the rest of the jurors of the same jury have not appeared, therefore others from the by-standers by the sheriff of the county aforesaid, hereto elected at the request of the said *G.* and by the command of the justices aforesaid, are added anew, whose names to the panel within written are put, according to the form of the statute in such case lately made and provided; and the jurors so added anew, to wit, *E. G. Esq; &c.* being called likewise come, who to say the truth of the within contained, together with the other jurors aforesaid first impanelled and sworn, being elected, tried and sworn, say on their oath, that the said *W. H.* is guilty of the trespass and ejectment within written in manner and form as the said *G.* within against him complains; and they assess the damages of him the said *G.* by reason of that trespass and ejectment, besides his costs and charges by him about his suit in this behalf expended, to 8*d.* sterling, and for those costs and charges to 6*d.* sterling: Therefore it is considered, that the said *G.* do recover against the said *W.* his term of and in the demised premises aforesaid with the appurtenances yet to come to his damages aforesaid by the jurors aforesaid in form aforesaid assessed, and also 13*l.* 11*s.* 6*d.* to the same *G.* for his costs and charges by him about his suit in this behalf expended, by the court of the said Lady the Queen here with his assent of increase adjudged; which said damages in the whole amount to 13*l.* 12*s.* 8*d.* and be the said *W. H.* taken, as by the inspection of the record and proceedings thereof, which we lately caused to be brought into our court before us for certain causes of error to be corrected, appears to us on record: And whereas afterwards, to wit, on *Monday* next after the morrow of the Ascension of the Lord in the 2d year of our reign before us at *Westminster* came the said *W. H.* by *P. C.* his attorney, and immediately said, that in the record and proceedings aforesaid, and also in the rendition of the judgment aforesaid, there was manifest error, in this, to wit, that where by the record aforesaid it appears that the judgment aforesaid in the plea aforesaid in form aforesaid given was given for the said *G.* against the said *W.* where by the law of the land of the kingdom of the Lady the Queen of *Ireland* the said judgment ought to have been given for the said *W.* against the said *G.* therefore in that it is manifestly erroneous: And the said *G.* on the same day being solemnly called by *T. G.* his attorney likewise came, and said, that the record and proceedings aforesaid so as aforesaid sent were defectively, and not rightly certified; and that the record or writing itself of the judgment aforesaid remaining with you our said chief justice, assigned to hold pleas in our court before us in our kingdom of *Ireland*, from whence the said transcript or such certificate was made, varied and was different from the said certificate thereof, in manner and form following, to wit, where after the adjudication and entry of the writ of *venire facias* in the said certificate or transcript it is contained thus: Before which day, to wit, *Wednesday* next after 15 days of *Easter*, to wit, on the 8th day of *March* last past the Lord King *William* the Third departed this life, in the record or writing itself in the custody of you our said chief justice there and in lieu thereof it is contained thus: Before which day, to wit, on the 8th day of *March*, the Lord King *William* the Third departed this life; and where a little after in the same certificate or transcript it is contained thus; Let a jury thereon come before the Lady the Queen at the

Queen's court on *Friday*, in the said record or writing in the custody of you our chief justice there, and in lieu thereof it is contained thus; Let a jury thereon come before the Lady the Queen at the King's court on *Friday*; and where a little after in the said certificate it is contained thus, was put thereof between them in respite before the Lady the Queen at Queen's court, in the record or writing itself aforesaid, in the custody of you our chief justice aforesaid there; and in lieu thereof it is contained thus, was put thereof between them in respite, before the Lady the Queen at the King's court; and also afterwards in that certificate in the beginning of the entry of the *possea*, or return of the writ of the Lady the Queen of *nisi prius* it is contained thus, Afterwards, the day and place within contained, before *Richard Cox*, Knt. chief justice of the Lady the Queen assigned to hold pleas in the court of the said Lady the Queen of the Common Bench, assigned to hold pleas in the court of the Lady the Queen before the Queen herself in *Ireland*, and *J. M.* in the said record or writing in the custody of you our chief justice aforesaid there; and in lieu thereof it is contained thus, Afterwards the day and place within contained, before *R. C.* Knt. chief justice of the Lady the Queen of the Common Bench in *Ireland*, and *J. M.* and also where of and in the entry of the judgment aforesaid, in the certificate aforesaid it is contained thus, yet to come, to his damages aforesaid, by the jury aforesaid in form aforesaid assessed, in the record or writing itself in *Ireland* remaining with you our chief justice aforesaid there; and in lieu thereof it is contained thus, yet to come, and his damages aforesaid by the jury aforesaid, in form aforesaid assessed; and because it was not known to our same court before us, whether the allegation of the said *George* aforesaid was true or not; and it was expedient to be certified thereof before our said court proceeded further in that behalf, you our chief justice aforesaid assigned to hold pleas before us in our kingdom of *Ireland* was commanded, that the record and proceedings aforesaid, and the rolls and memorandums concerning them, remaining in your custody in our said court in *Ireland* being searched, what you should find in the same of the premises, or any of them, by the said *George* as aforesaid alledged, you should without delay certify to us wheresoever, *&c.* in *England*, together with the said writ to you therefore directed: And you our chief justice assigned to hold pleas in our court before us in our kingdom of *Ireland* have certified, that the record and proceedings aforesaid, and the rolls and other memorandums remaining in your custody in our court before us in *Ireland* being searched, you have found that the allegation of the said *George* is true, to wit, that after the adjudication and entry of the writ of *venire facias* in the record or writing aforesaid remaining in your custody, from which the certificate aforesaid was made, it is contained thus, to wit, before which day, to wit, on the 8th day of *March*, the Lord King *William* the Third departed this life: And a little after, in the said record or writing remaining with you, it is contained thus, to wit, was put thereof between them in respite before the Lady the Queen at the King's court; and that at the beginning of the entry of the *possea* or return of the writ of the Lady the Queen, of *nisi prius* entered in the said record or writing remaining in your custody, it is contained thus: Afterwards the day and place within contained before *R. C.* Knt. chief justice of the Lady the Queen of the Common Bench in *Ireland*, and *J. M.* and that in the entry of the judgment in the cause aforesaid it is contained thus, to wit, yet to come, and his damages aforesaid by the jury aforesaid assessed: And you further certified that it is not there in the record or writing aforesaid from whence the certificate aforesaid was made contained thus, before which day, to wit, *Wednesday* next after 15 days of *Easter*, to wit, on the 8th day of *March* last past the Lord King *William* the Third departed this life; or thus, to wit, Let a jury thereon come before the Lady the Queen at the Queen's court on *Friday*; or thus, was put thereof between them in respite before the Lady the Queen at the Queen's court; or thus, to wit, afterwards the day and place within contained, before *R. C.* Knt. chief justice of the Lady the Queen, assigned to hold pleas in the court of the said Lady the Queen of the Common Bench, assigned to hold pleas in the court of the said Lady the Queen before the Queen herself in *Ireland*; or thus, to wit, yet to come, to his damages aforesaid by the jury aforesaid in form aforesaid assessed: And thereupon the said *William H.* as before, said, that in the record and proceedings aforesaid, and also in the rendition of the judgment aforesaid there was manifest error, alledging the errors aforesaid by him in form aforesaid alledged; and prayed that the judgment aforesaid for the errors aforesaid, and others, being in the record and proceedings aforesaid, might be reversed, annulled, and held as intirely void; and that he might be restored to all things which he lost by reason of the judgment aforesaid, *&c.* and that the said *G. H.* to those errors might rejoin: And thereupon the said *G.* said that there was no error either in the record and proceedings aforesaid, or in the rendition of the judgment aforesaid; and prayed that the court of the said Lady the Queen here might proceed to the examination, as well of the record and proceedings aforesaid as of the matters aforesaid above for error assigned, and that the judgment aforesaid might be in all things affirmed: And whereon in our court before us at *Westminster*, from the day of *Easter* in three weeks in *Easter* term in the third year of our reign, upon mature deliberation thereon had, it is considered that the judgment aforesaid be in all things affirmed, and stand in its full force and effect; the said causes and matters above for error assigned in any wise notwithstanding: And it is further by our said court before us at *Westminster* considered, that the said *G.* do recover against the said *W.* 30 *l.* to the same *G.* by our same court, according to the form of the statute thereof made and provided, adjudged for his costs, charges and damages which he hath sustained by reason

of the delay of execution of the judgment aforesaid; on the pretence of prosecuting the said writ of error, and that the said *George* may have thereof execution; as by the record thereof in our said court before us at *Westminster* remaining more fully appears: And we thereupon being willing that all things which in the said court of the said Lord *William* the Third late King of *England*, &c. before the late King himself, called the King's court in our kingdom of *Ireland*, and also in our same court before us in our kingdom of *Ireland*, are lawfully transacted and adjudged, should be carried into due and speedy execution; command you that such execution and proceedings may be made thereon; as according to the law and custom of our kingdom of *Ireland* ought to issue, and be made; the writ of error aforesaid notwithstanding. Witness *J. Holt*, Knt. at *Westminster*, the 16th day of *June* in the third year of our reign.

Holt. Coleman.

A NNE, &c. To our trusty and beloved *Richard P.* Knt. our chief justice assigned to *Otherwise*. hold pleas in our court before us in our kingdom of *Ireland*; greeting: Whereas we lately commanded you by our writ of error close in these words, to wit, *Anne*, &c. To our trusty and beloved *Richard P.* Knt. our chief justice assigned to hold pleas in our court before us in our kingdom of *Ireland*, greeting: Because in the record and proceedings of a certain plea which was in the court of the Lord *William* the Third, late King of *England*, before the late King himself in his kingdom of *Ireland* by bill (and so recite the writ and return, and the whole transcript, and conclude) as by the inspection of the record and proceedings thereof, which we lately caused to be brought into our court before us for certain causes of error appears to us on record: Whereupon the said *Mary* said, that in the record and proceedings aforesaid, and also in the rendition of the judgment of the plea aforesaid there is manifest error, alledging the errors aforesaid by her above alledged; and prayed that the judgment aforesaid, for the errors aforesaid, and others, being in the record and proceedings aforesaid might be reversed, annulled and held as intirely void; and that the same *Mary* might be restored to all things which she lost by reason of the judgment aforesaid, and that the said *Joseph* to the errors aforesaid might rejoin: And thereupon the said *Joseph* said that there was no error either in the record and proceedings aforesaid, or in the rendition of the judgment of the plea aforesaid; and likewise prayed that our court before us at *Westminster* might proceed as well to the examination of the record and proceedings aforesaid as of the matters aforesaid above for error assigned, and that the judgment aforesaid might be in all things affirmed. And whereon in our court before us at *Westminster*, on *Saturday* next after 15 days of *St. Martin* in *Michaelmas* term, in the first year of our reign, on mature deliberation thereon had, it is considered that the judgment aforesaid be in all things affirmed and stand in its full force and effect, the said causes and matters above for error assigned in any wise notwithstanding: And it is further by our said court before us at *Westminster* considered, that the said *Joseph H.* do recover against the said *Mary C.* 12 l. to the same *Joseph* by our same court, according to the form of the statute thereof lately made and provided, adjudged for his costs, charges and damages which he sustained by reason of the delay of execution of the judgment aforesaid, on the pretence of prosecuting the said writ of error; and that the said *Joseph* may have thereof execution, as by the record thereof in our same court before us at *Westminster* remaining more fully appears: And we thereupon being willing that all things which in the said court of the said Lord *William* the Third late King of *England*, &c. before the late King himself, called the King's court in his kingdom of *Ireland*, and also in our same court before us in our kingdom of *Ireland* are lawfully transacted and adjudged, should be carried into due and speedy execution, command you that such execution and proceedings be thereon made, as according to the law and custom of our kingdom of *Ireland*, ought to issue and be made; our writ of error aforesaid in any wise notwithstanding. Witness *J. Holt*, Knt. at *Westminster* the 28th day of *November* in the first year of our reign.

Holt. Coleman.

Non

Non omittas.

*Non omittas
lascias.*

WILLIAM, &c. To the sheriff of *North'ton*, greeting: We command you, that you do not omit on account of any liberty of our town of *North'ton* in your county, but that you enter into it and take *Robert S. Gent.* if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us at *Westminster* on day next after to answer to *William A.* the elder, Gent. in a plea of trespass, and also to the bill of him the said *William* for 78 l. debt, according to the custom of our court before us to be exhibited; And have there then this writ. Witness *J. Holt*, Knt. at *Westminster* 28th day of *November* in the 12th year of our reign.

Non

Non ponend in Affis.

ANNE, &c. To the sheriffs of *London*, greeting: Whereas by the common council *West. 2. c. 38.* of *England* it is provided, that men exceeding the age of threescore and ten years, or being continually sick, shall not be put in assises, juries or recognisances: We command you, that if *Richard C.* the elder, of *London*, bookseller, is above the age aforesaid, or is continually sick, then do not put or cause to be put him the said *Richard* in any assises, juries or recognisances, against the form of the provision aforesaid; and the distress, if you have made any on the same *Richard* on that account, without delay to him. Witness Ourselves at *Westminster* the 24th day of *January* in the 8th year of our reign.

Allowed 10 Feb. 1709. by { *Richard Hoare, Knt.*
and
Thomas Dunk, Esq; } sheriffs.

The allowance thereof
to the sheriff.

Affidavit must be made before a master in Chancery that the person is above sixty years old, and left with the curfitor.

Privilege.

A writ of privilege from arrest for a filazer of K.B.

GEORGE, by the grace of God, of *Great Britain, France and Ireland* King, defender of the faith, &c. To the sheriffs of *London*, greeting: Whereas as well by reason of our royal dignity as by a custom in our court and of our progenitors, late Kings and Queens of *England*, before us and our same progenitors, for time immemorial used and approved in the same all and every the filazers, attornies, clerks and officers of the same court, who are bound by oath to follow their functions for us and our people, ought not, nor for all the time aforesaid have been accustomed to be taken, arrested, imprisoned, or against their will drawn or compelled to answer to any person not being a filazer, attorney, clerk or officer of some of our courts, before any judges secular, elsewhere or otherwise than by bill or bills to be filed against them in our said court before us in or upon any pleas or plaints which do not concern us (pleas or causes of felony and appeals, and pleas of freehold only excepted:) Nevertheless some evil disposed persons, not being filazers, attornies, clerks or officers of any of our courts, notwithstanding our dignity, the custom and privilege aforesaid, do, as we have understood, intend to take, arrest and imprison, or before you have drawn, or do intend by your servants to draw in plea *James W.* Esq; being one of the filazers of our said court, before us, whose constant attendance is required in our same court, to the detriment and manifest diminution of our dignity, the custom and privilege aforesaid, to the great damage of many of our subjects prosecuting and defending in our said court, and the no small prejudice and grievance of the same *James W.* which, should it be permitted, would for the future be a very bad example for others; wherefore the same *James W.* hath implored us to grant him his proper remedy in this behalf: And we being willing that what is just and reasonable should be done for the same *James W.* and likewise that the honour, custom, liberty and privilege of our said court should be inviolably preserved, command and firmly injoin you, that you, and each of you, do wholly desist from taking, arresting, imprisoning, or in any wise molesting the said *James W.* by your servants, at the suit of any persons not being filazers, attornies, clerks or officers of some of our courts, (except before excepted) or from proceeding in any plaint in our court before you, or either of you, against him levied or to be levied by whomsoever not being so as aforesaid privileged; and if you, or either of you, have taken the said *James W.* before the receipt of this writ, against the custom, liberty and privilege aforesaid, that then you, and each of you, immediately discharge him from that arrest, telling the plaintiffs in those pleas and plaints from us, that they file their bills in their pleas aforesaid, according to the custom of our said court for time immemorial used and approved in the same, against the said *James W.* in our said court before us, to obtain justice there, if they shall think fit. Witness *T. Parker*, Knt. at *Westminster* 13th day of *February* in the second year of our reign.

3

Holt. Ventris.
Woodhouse propr.

ANNE,

A *NNE, &c.* To the judges of our court of our palace, and every of them, greeting: Writ of privilege for an attorney of K. B. directed to the palace court.
Whereas as well by reason of our royal dignity as by an antient custom, according to the same for times past used and approved hitherto, it hath obtained, that all and every our attornies assigned to inrol pleas in our court before us elsewhere than in our same court before us ought not, nor for all the time aforesaid have been accustomed to be drawn or compelled to answer before any secular judges on any pleas or plaints: And now on the behalf of *Thomas H. Gent.* being one of the attornies of our court before us, we have understood, that notwithstanding the dignity and custom aforesaid, some evil disposed persons the dignity and custom aforesaid lightly regarding, the said *Thomas H.* in our court before you, on pretence of divers plaints before you against the said *Thomas* levied, have drawn in plea, to the manifest detriment and diminution of our dignity and the custom aforesaid, and the no small prejudice and grievance of the same *Thomas H.* which if it should be permitted, would for the future be a very bad example to others; therefore we command and firmly injoin you, that you wholly desist from proceeding further before you or any of you in the plaints aforesaid, or any of them, telling the parties in the same plaints before you in form aforesaid prosecuting, that they may come to our court before us to obtain justice therein there against the said *Thomas H.* if they will. Witness *Thomas Parker, Knt.* at *Westminster* the 25th day of *June* in the 12th year of our reign.

Holt. Ventris.

Procedendo!

Procedendo.

A procedendo
on a *babeas
corpus* to the
constable of
the honour
and castle of
Windsor.

WILLIAM, &c. To the most noble *George Duke of Northumberland*, knight of the most honourable order of the garter, constable of our honour and castle of *Windsor* in the county of *Berks*, and keeper of the forest of the same, or his lieutenant or deputy there, greeting: Altho' by our writ we lately commanded, that the body of *Henry B.* in our prison under your custody, as it is said, detained, under a safe and secure conduct, together with the day and cause of his caption and detention, by whatever name the same *Henry* might be called in the same, you should have before us at *Westminster* on *Wednesday* next after the *Octave* of *St. Martin* last past, to do and receive all and singular those things which our same court before us should then and there consider concerning him in that behalf: Nevertheless for certain reasons us now in our court before us especially moving, we command you, that in whatever complaints against him the said *Henry B.* at the suit of *Elizabeth M.* widow, in our court before you, or any of you, levied or affirmed, and before you now depending undetermined, with what speed you can you proceed in such manner as according to the law and custom of this our kingdom of *England* you shall see fit to proceed; our writ of *babeas corpus* aforesaid to you before to the contrary thereof directed in any wise notwithstanding. Witness *J. Holt*, Knt. at *Westminster* 12th day of *February* in the 13th year of our reign.

A procedendo
on a *babeas
corpus*.

WILLIAM and *Mary*, &c. To the mayor, aldermen and sheriffs of the city of *London*, greeting: Altho' we lately by our writ commanded you, that you should have the body of *Robert W.* in our prison under your custody, as it was said, detained, under a safe and secure conduct, together with the day and cause of his caption and detention, by what name soever the said *Robert* might be called in the same, before *John Holt*, Knt. our chief justice assigned to hold pleas in our court before us, at his chambers situate in *Serjeants-Inn* in *Chancery-lane*, *London*, immediately after the receipt of that writ, to do and receive all and singular those things which our same chief justice should then and there consider concerning him in that behalf: Nevertheless for certain reasons us now in our court before us especially moving, we command you, and every of you, that in whatever complaints or suits against him the said *Robert W.* at the suit of *Francis M.* in our court before you, or any of you, levied or affirmed, and before you, or any of you, now depending undetermined, with what speed you can you proceed in such manner as according to the law and custom of our kingdom of *England*, or of our city of *London* aforesaid, you shall see fit to proceed; our writ of *babeas corpus* aforesaid to you before directed to the contrary thereof in any wise notwithstanding. Witness, &c.

William,

William, &c. To the mayor, aldermen and sheriffs of *London*, greeting: Whereas ^{A *procedendo*} we by our writ being willing for certain reasons to be certified as well of a ^{on a writ of} certain original bill or plaint in our court, before you or some of you levied or affirmed ^{*certiorari* di-} against the royal *African* company of *England*, at the suit of *William W.* in a plea of ^{rected to the} debt as of all sequestrations and attachments thereon made of the money, goods or chattels ^{mayor, alder-} of the said royal *African* company of *England*, lately commanded you and every of you, ^{men, &c. of} that the original bill and plaint aforesaid, and the sequestrations and attachments aforesaid, ^{*London*.} with all things touching them, as fully and intirely as in our court before you or any of you they remained, before our trusty and beloved *John Holt*, Knt. our chief justice assigned to hold pleas in our court before us at his chambers, situate in *Serjeants-Inn* in *Chancery-lane*, *London*, immediately after the receipt of that writ you should send, that our same chief justice might cause to be done in that behalf what of right he should see proper to be done: Nevertheless for certain reasons us now in our court before us especially moving, we command you and every of you, that as well in the original bill or plaint aforesaid in our said court before you, or some of you, levied or affirmed against the said royal *African* company of *England*, at the suit of the said *William W.* in the plea aforesaid, as in all sequestrations and attachments thereon made of the money, goods and chattels of the said royal *African* company of *England* with what speed you can, you proceed in such manner as according to the law and custom of our city of *London*, you shall see proper to proceed; our writ of *certiorari* aforesaid to you before to the contrary thereof directed in any wise notwithstanding. Witness, &c.

Prohibition.

A prohibition
to the spiritual
court for the
words *whore*,
and *have got*
the pox.

ANNE, &c. To the reverend and excellent man *Henry N.* doctor of laws of the consistory court, *London*, official principal lawfully constituted, or to your surrogate or other judge in this behalf competent whatever, greeting: It is shewn to us in our court before our justices at *Westminster*, by *Francis P.* on the behalf of *Mary P.* the wife of the said *Francis P.* that whereas all and all manner of pleas of trespass on the case within this kingdom of *England* arising and happening, to the Lady the now Queen, and to her royal crown, and to the court of the said Lady the Queen, according to the laws and customs of this kingdom do belong and appertain; nevertheless one *Elizabeth H.* wife of *Thomas H.* an inhabitant of the parish of *Ealing*, otherwise *Yealing*, in the county of *Middlesex* and diocese of *London* aforesaid, not ignorant of the premisses, but contriving the said *Mary* unjustly to aggrieve and oppress her the said *Mary* (being likewise an inhabitant within the parish aforesaid in the county aforesaid) to another proof in the court christian before you the said *Henry N.* doctor of laws of the consistory court of *London*, official principal lawfully constituted, contrary to the due form of the law of this kingdom of *England*, and against the custom aforesaid, for a certain cause of a supposed contempt, scandal and disgrace of the said *Elizabeth H.* hath unjustly drawn in plea to answer to certain articles by the said *Elizabeth* in the same court christian against her the said *Mary*, in the premisses exhibited and promoted, cautiously and subtilly there articulating and objecting that the said *Mary* in the months of *March*, *April* and *May* in the year 1703. within the said parish of *Ealing*, otherwise *Yealing*, in the county of *Middlesex*, and other parishes and publick places to the same neighbourhood adjoining, the same *Elizabeth* wickedly and maliciously defamed, and some defamatory words, to the infamy and diminution of the estate, name, and good reputation of the said *Elizabeth* tending, and particularly these *English* words following, or others in effect like them, and importing the same sense, to wit, You (meaning the said *Elizabeth*) are a whore, and have got the pox, and it has eat the teeth out of your head; and you (again meaning the said *Elizabeth*) have given it to your husband, openly and publickly said, uttered, pronounced and published, and her the said *Mary* in the said court christian before you the said judge spiritual, of and upon the premisses to appear, hath unjustly obliged, and the same *Mary* thereupon there to answer, and in the premisses to cause to be condemned with all her power endeavours and daily contrives, in contempt of us, and against the laws and customs of this kingdom of *England*, and to the manifest damage, prejudice and grievance of her the said *Mary*; wherefore the same *Francis* for the said *Mary* most humbly imploring the aid of our court of the Bench hath prayed relief, and our writ of prohibition to you and every of you to be directed, to prohibit you and every of you, that you no further hold the plea aforesaid, the premisses aforesaid in any wise touching, before you or any of you, nor any thing in the court christian attempt nor procure to be done, which may be in any wise to the prejudice of the said *Mary*, or in contempt of us and our law, lest you should incur the punishment of the violaters of our law; and also the sentence or judgment, if any, against the said *Mary* on that account you have given or pronounced, or any of you have given or pronounced, then do you and every of you, without delay, release the said *Mary* therefrom, and her from hence wholly absolve at your peril. Witness *T. Trevor*, &c.

ANNE, &c. To the reverend *George B.* doctor of laws, surrogate to the reverend *Peter M.* batchelor of laws, vicar general in spirituals of *Peter* by divine permission Lord bishop of *Winchester*, and of his consistorial episcopal court of *Winchester* official principal lawfully constituted, or to his deputy or other judge in this behalf competent, greeting: Whereas *Henry P.* of the parish of the Holy Trinity in *Guildford* in the county of *Surry*, draper, lately in our court before us at *Westminster* came and gave our same court to understand and be informed, that whereas all and singular (*and so on with the suggestion by way of recital to*): Nevertheless you the said *George B.* surrogate of the said *Peter M.* vicar general in spirituals of *Peter* bishop of *Winchester*, and of his consistorial episcopal court of *Winchester* official principal, well knowing the premisses, yet contriving (*and so on till you come to the word relief, and then say*) We therefore being willing, as we are by our oath bound, that the rights of our royal crown and the laws and customs of this our kingdom of *England* should be observed, and our liege subjects in no wise oppressed, prohibit and firmly injoin you, and every of you, that you, or any of you, do not hold plea touching or in any manner concerning the premisses before you, or any of you, nor attempt or presume to attempt any thing therein; and if you have pronounced any sentence of excommunication against him the said *Henry P.* by reason of the premisses, then without delay revoke, or cause it to be revoked, and him the said *Henry P.* from thence wholly absolve and release, at your peril. Witness *J. Holt*, Knt. &c.

Prohibition to
the surrogate
of the spiritual
court.

Recordari

Recordari facias loquelam.

A recordari
facias loque-
lam in the
county-court
of the sheriff
of *Suffex*, re-
turnable in
C. B.

GEORGE, &c. To the sheriff of *Suffex*, greeting: We command you, that in your full county you cause to be recorded the plaint which is in the same county without our writ between *Robert B.* and *Benjamin B.* of a certain trespass on the case, to the same *Robert* by the said *Benjamin* done, as it is said; and have that record before our justices at *Westminster* from the day of *St. Martin* in 15 days under your seal and the seals of four lawful Knights of the same county of those who were present at that record, and appoint the same day to the parties that they be then there to proceed in that plaint, as it shall be just; And have there the names of the said four Knights, and this writ. Witness Ourselves at *Westminster* 22d day of *October* in the fourth year of our reign. Because the said *Benjamin* by reason of the favour which the said *Robert* hath in the court aforesaid cannot obtain justice there, as it is said, let there be execution of this writ, if the cause is true; and the said *Benjamin* desires it, and otherwise not.

The return
thereof.

The execution of this writ to me directed in my full county held at *Lewes* by adjournment 31st day of *October* in the fourth year of the reign of the King within written, I have caused to be recorded the plaint whereof mention is within made; which said plaint appears in a certain schedule to this writ annexed; and that record I have before the justices within written at the day and place within contained under my seal and the seals of *Henry B. Oliver W. John N.* and *John N.* the younger, four good and lawful men of the same county of those who were present at that record; and I have appointed the day within written to the parties that they be then there to proceed in that plaint, as it shall be just, as I am within commanded.

The residue of the execution of this writ appears in a certain schedule to this writ annexed.

John Watson, Esq; sheriff.

Suffex, to wit, *Lewes* }
county-court.

At the fifth court of my county held at *Lewes* for the county aforesaid by adjournment 31st day of *October* in the fourth year of the reign of our Lord *George*, now King of *Great Britain*, &c. and in the year of the Lord 1717, before *Nicholas Stens*, *William Read*, and others, suitors of the court aforesaid, among other things it is thus contained.

Robert Bonner complains against *Benjamin Baker* in a plea of trespass on the case.

Pledges to prosecute { *John Doe*,
and
Richard Roe.

John Watson, Esq; sheriff.

ANNE,

A *NNE, &c.* To the sheriff of *Sussex*, greeting: We command you, that in your full writ, between *Luke L.* and *John A.* in a plea of trespass on the case, to the same *Luke* by the said *John* done, as it is said; and have that record before us from the day of *Easter* in 15 days, wheresoever we shall then be in *England*, under your seal and the seals of four lawful Knights of the same county of those who were present at that record, and appoint the same day to the parties that they be then there to proceed in that plea, as it shall be just; And have there the names of the said four Knights, and this writ. Witness Ourself at *Westminster* 13th day of *March* in the 10th year of our reign. Because the said *John*, by reason of the favour which the said *Luke* hath in the county aforesaid, cannot obtain justice there, as it is said, let there be execution of this writ, if the cause is true, and the said *John* desires it, otherwise not. By the Lord keeper of the great seal of *Great Britain* at the instance of the defendant. By virtue of this writ to me directed, at my full county held at *Lewes* in the county aforesaid in and for the same county 22d day of *March* in the 10th year of the reign of the Lady *Anne*, now Queen of *Great Britain*, &c. I have caused to be recorded the plea, whereof mention is above made, which appears in the schedule to this writ annexed; and I have that record before the said Lady the Queen at the day and place in the writ aforesaid contained under my seal and the seals of *Richard V. Thomas E. Richard B.* and *James L.* four good and lawful Knights of the same county of those who were present at that record; and I have appointed the same day to the parties aforesaid, that they be then there to proceed in that plea as it shall be just, as in the writ aforesaid I am commanded: The residue of the execution of this writ appears in a certain schedule to the same annexed.

Hugh Reason, Esq; sheriff.

Sussex, Lewes county- } At the court of *William K.* Esq; sheriff of the county aforesaid, held
court, to wit. } at *Lewes* 15th day of *June* in the 9th year of the reign of our Lady
Anne, by the grace of God, of *Great Britain*, &c. before *Thomas*
J. Gent. Thomas T. the younger, and *William S.* suitors of the same
court, among other things it is contained thus.

Sussex, Lewes county- } *Luke L.* complains against *John A.* in a plea of trespass on the case,
court, to wit. } &c. recorded between the parties at the court held for the county
aforesaid at *Lewes* 22d day of *March* in the 10th year of the reign
of our Lady *Anne*, now Queen of *Great Britain*, &c.

Restitution & Superseदेas.

Restitution
and *superse-*
deas after out-
lawry re-
versed.

WILLIAM, &c. To our constable of our castle of *Dover*, or his lieutenant or deputy, greeting: Because in the record and proceedings, and also in the promulgation of the outlawry against *Edward S.* late of *Dackle* in the county of *Kent*, at the suit of *Ralph* Earl of *Mountague* in a plea of trespass on the case, in our hustings of *London* pronounced, and before us wheresoever, &c. lately returned and filed, a manifest error hath happened, to the great damage of him the said *Edward*, as by the inspection of the record and proceedings thereof in our court before us remaining appears to us on record; and we for sundry errors in the record and proceedings aforesaid in our court before us found have reversed and intirely annulled the outlawry aforesaid: And it is farther considered, that the said *Edward* be restored to the common law of our kingdom of *England*, and to all things that he hath lost by reason of the outlawry aforesaid: Therefore we command you, and every of you, that you wholly desist from taking the body of the said *Edward S.* or seising into our hands any goods or chattels of the same *Edward* by reason of the outlawry aforesaid; and if he is detained in our prison on that account, and no other, then cause him to be delivered out of the prison wherein he is so detained, without delay, at your peril: We likewise command you, that if you, or any of you, have taken or seised any goods or chattels of the same *Edward* into our hands by reason of the outlawry aforesaid, and none other, then without delay cause them to be delivered to the same *Edward* likewise, at your peril.

Otherwise.

ANNE, &c. To the sheriff of *Middlesex*, greeting: Whereas the late sheriffs of *London* were by our writ commanded, that they should cause to be called *John G.* late of, &c. (*so go on reciting the exigent and the return thereof*) as by the inspection of the record and proceedings aforesaid remaining in our court before us manifestly appears: And because no writ of proclamation, according to the form of the statute in such case made and provided, issued against the said *John* in the plea aforesaid, the outlawry aforesaid in form aforesaid against the said *John* pronounced and had is intirely void, and of no force and effect in law; and we for this reason the record and proceedings aforesaid of the outlawry aforesaid have reversed and intirely annulled: And we have farther considered, that the said *John G.* be restored to the common law of our kingdom of *England*, and to all things that he hath lost by reason of the outlawry aforesaid: And now on the behalf of the said *John G.* we have in our court before us understood, that you by virtue of our writ to you therefore directed, sundry cattle, goods and chattels of the said *John G.* into our hands by reason of the outlawry aforesaid have taken and seised, and them in your custody yet detain, to the great damage of him the said *John*; wherefore the same *John* hath implored us to grant him his proper remedy in this behalf: And we being unwilling that the said *John* should be injured in this behalf, command you, that you without delay deliver and make to the same *John* full restitution of all the cattle, goods and chattels of him the said *John* by you so taken as aforesaid; and this by no means omit, at your peril. Witness, &c.

Restitution,

WILLIAM, &c. To the sheriff of *Kent*, greeting: Whereas by our writ reciting, A writ of re-
 that whereas *Henry W.* had lately in our court before us at *Westminster* by situation of
 bill, without our writ, and by the judgment of the same court recovered possession be-
 against *Margaret O.* widow, his term then to come of and in six messuages, one mill, cause the writ
 eight barns, eight gardens, 150 acres of land, 50 acres of meadow, 150 acres of pasture, of habere fa-
 and 50 acres of wood, with the appurtenances, situate, lying and being in the parishes of cial posses-
Linton, Hunton, Hedcorne, Ulcombe, East Sutton, Smarden, Boxley, Thurnham, Maidstone, nem issued er-
East Farley and Loose in your county, which one *Edward O.* on the first day of *Septem-* roneously,
 ber in the sixth year of our reign, and of the late Queen *Mary*, at *Maidstone* in your
 county, had demised, granted, and to farm let to the said *Henry*, to hold to the said
Henry for a term of years which is not yet past, to wit, from the 30th day of *August*
 then last past, until the full end and term of five years from thence next ensuing, fully
 to be compleat and ended; by virtue of which said demise the same *Henry* into the tene-
 ments aforesaid, with the appurtenances entred, and was thereof possessed, until the said
Martha afterwards in and upon the possession of him the said *Henry* thereof entred, and
 him the said *Henry* from his farm aforesaid, his term aforesaid therein not yet ended,
 ejected, expelled and removed, we lately commanded you that you should cause the said
Henry to have his possession of his term aforesaid yet to come, of and in the tenements
 aforesaid, with the appurtenances; and how you should execute that our writ you should
 certify to us at *Westminster* on *Monday* next after the octave of the purification of the
 Blessed Virgin *Mary*; by virtue of which said writ you the sheriff of the county of *Kent*
 caused the said *Henry* to have possession of his term aforesaid yet to come, of and in the
 messuages, mill, lands and tenements aforesaid, with the appurtenances, as by the return
 thereof appears to us: And because that writ did wrongfully, unadvisedly and erroneously
 issue out of our said court before us, therefore we command you that you, without delay, restore
 to the said *Martha* her full possession of and in the messuages, mill, lands, tenements and
 hereditaments aforesaid from the said *Martha*, by virtue of the writ aforesaid, as aforesaid
 unjustly taken; and how you shall execute this our writ certify to us at *Westminster* on
Wednesday next after 15 days of *Easter*, returning to us this our writ. Witness, &c.

Return'

Retorn habend.

Retorn habend' after judgment for the defendant on a demurrer in replevin.

ANNE, &c. To the sheriff of *Middlesex*, greeting: Whereas *J. S.* late of the parish of *St. Clement Danes* in your county, Esq; was summoned to be in our court before us at *Westminster* to answer *William P.* Esq; in a plea, why on the 14th day of *October* in the first year of our reign, at the parish of *St. Clement Danes* in your county, in a certain place there, called a chamber in *Devereux Court*, he took the goods and chattels of him the said *William*, to wit, one bed, one bedstead, one bolster, one pillow, four curtains vallance, two blankets, one quilt, a chest of drawers, 30 books, one looking-glass, one large brush, one large trunk and four chairs, and unjustly detained them, against surety and pledges, until, &c. And the same *J. S.* came into our court before us and alledged and said, that the said *William* ought not to have or maintain his action aforesaid thereof against him, because as to the said one bed, one bedstead, one bolster, one pillow, four curtains vallance, two blankets, one quilt, a chest of drawers, 20 books of the books aforesaid, parcel of the goods and chattels aforesaid in the declaration aforesaid mentioned, the same *John* said, that the property of those goods and chattels at the said time of the taking of them was in the said *John*; without that, that the property of those goods and chattels was in the said *W.* as by the declaration aforesaid was above supposed: And this he was ready to verify: And as to the said chest of drawers, ten other books, one large brush, one large trunk and four chairs, the residue of the goods and chattels aforesaid in the declaration aforesaid mentioned, the said *John* said, that at the time of the taking of the residue of those goods and chattels last mentioned, the property of the same goods and chattels was in one *P. F.* without that, that the property of the residue of those goods and chattels at the said time when, &c. was in the said *William*, as by the declaration aforesaid was above supposed: And this he was ready to verify and prove: Wherefore he prayed judgment if the said *William* ought to have or maintain his action aforesaid thereof against him, &c. He also prayed a return of all and singular the goods and chattels aforesaid, together with his damages, costs and charges by him about his suit in that behalf expended, to be adjudged to him, &c. And the said *William* said, that the plea aforesaid of the said *John* above pleaded, and the matter in the same contained, was insufficient in law to, preclude him the said *William* from having his action aforesaid against the said *John*; and that he to that plea in manner and form aforesaid pleaded had no necessity, nor was by the law of the land obliged in any manner to answer: And this he was ready to verify: Wherefore for want of a sufficient answer in this behalf, he the same *William* prayed judgment and his damages, by reason of the caption and unjust detention of the goods and chattels aforesaid, to be adjudged to him, &c. And the said *John* said, that the plea aforesaid by him the said *John* in manner and form aforesaid pleaded, and the matter in the same contained, was good and sufficient in law to preclude the said *William* from having his action aforesaid thereof against him the said *John*; which said plea, and the matter in the same contained, he the said *John* was ready to verify and prove, as the court, &c. And because the said *William* did not answer to that plea, nor hitherto in any wise deny it, he the said *John* as before prayed judgment, and a return of all and singular the goods and chattels aforesaid, together with his damages, &c. to be adjudged to him, &c. And it was in such manner thereon proceeded in our same court before us that it was considered, that the plea aforesaid by him the said *John* above pleaded, and the matter in the same contained, was good and sufficient in law to preclude the said *William* from having his action aforesaid thereof against him the said *John*: It was also considered, that the said *W. P.* should take nothing by his writ aforesaid, but for his false claim thereof should be in

in mercy, &c. and that the said J. S. should go thereof without day, &c. and that he should have a return of the goods and chattels aforesaid to hold to him irreplegable for ever: And it was further considered, that the said John ought to recover his damages against the said William by reason of the premisses, &c. Therefore we command you that you without delay cause the said John to have a return of the goods and chattels aforesaid irreplegable, and do not deliver them on the complaint of the said William, without our writ, which expressly mentions the judgment aforesaid; and how you shall execute this our writ certify to us on the octave of St. Hillary, wheresoever, &c. We likewise command you, that by the oath of 12 good and lawful men of your bailiwick, according to the form of the statute in such case thereof lately made and provided, you diligently inquire what damages the same John hath sustained, as well by reason of the premisses as for his costs and charges by him about his suit in this behalf expended; and the inquisition which you shall take thereof send to us on the said day, wheresoever, &c. under your seal, and the seals of those by whose oath you shall take that inquisition, together with our writ to you therefore directed. Witness J. Holt, Knt. at Westminster the 29th day of November in the second year of our reign.

ANNE, &c. To the Sheriff of *Suffex*, greeting: Whereas *Thomas E.* lately in our court before us at *Westminster*, was summoned to answer *Robert B.* in a plea, why he took seven cows, the cattle of him the said *Robert*, and unjustly detained them against surety and pledges, as it is said; and the same *Robert* afterwards in our same court before us made default; wherefore it was considered in our same court before us, that he and his pledges to prosecute should be in mercy, and that the said *Thomas* should go thereof with day, and that he should have a return of the cattle aforesaid: Therefore we command you, that you without delay cause the cattle aforesaid to be returned to the said *Thomas*, and do not deliver them on the complaint of the said *Robert* without our writ, which makes express mention of the judgment aforesaid; and how you shall execute this our writ certify to us from the day of ^{wheresoever we shall then be in Great Britain;} And have there this writ. Witness *John Holt*, Knt. &c.

Scire facias.

Scire facias
by an execu-
tor on a judg-
ment in K. B.
affirmed in
the Exchequer
chamber in
the time of
the testator.

GEORGE, &c. To the sheriffs of London, greeting: Whereas *Josbua H.* lately in our court before us at *Westminster*, by bill, without our writ, and by the judgment of the same court, recovered against *William H.* 44 *l.* for his damages which he sustained as well by reason of the non-performance of certain promises and assumptions of him the said *William* by him the said *William* to the same *Josbua* lately made, as for his costs and charges by him about his suit in that behalf expended, whereof he is convicted, as it appears to us on record, and also 10 *l.* adjudged to the same *Josbua* in our Exchequer chamber, according to the form of the statute thereof lately made and provided, for his damages, costs and charges which he had by reason of the delay of execution of the judgment aforesaid, on pretence of prosecuting our certain writ of error by the said *William* against the said *Josbua* in our Exchequer chamber aforesaid, before our justices of the Bench and the barons of our Exchequer of the degree of the coif, according to the form of the statute in such case thereof lately made and provided, prosecuted: And afterwards the said *Josbua*, at London aforesaid in the parish of *St. Mary le Bow* in the ward of *Cheape*, made his last will and testament in writing, and by the same will constituted and ordained *Gilbert H.* and *Josbua H.* the son of him the said *Josbua H.* the father, executors thereof, and afterwards there died; after whose death the said *Gilbert* and *Josbua H.* the son took upon themselves the burden of the execution of that will, and that will in due form of law proved: And now on the behalf of the said *Gilbert*, and *Josbua* the son, in our court before us we have understood, that altho' judgment thereof is given, yet execution of that judgment still remains to be made; wherefore the same *Gilbert* and *Josbua* the executors have implored us to grant them their proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by good and lawful men of your bailiwick you give notice to the said *William* that he be before us at *Westminster* on day next after to shew if he hath or can say any thing for himself why the said *Gilbert* and *Josbua* the executors ought not to have their execution for the damages, costs and charges aforesaid, according to the force, form and effect of the recovery aforesaid, if he shall think fit, and farther to do and receive what our court before us shall then and there consider concerning him in this behalf; And have there then the names of those by whom you shall give him notice, and this writ. Witness, &c.

Scire facias
for an admin-
istratrix to
hear errors in
the Exche-
quer chamber
where her
husband died
after the judg-
ment recover-
ed.

WILLIAM, &c. To the sheriffs of London, greeting: Whereas in the record and proceedings, and also in the rendition of the judgment of a plea which was in the court of the Lord *James* the Second, late King of *England*, &c. before the late King himself, by bill, between *William G.* and *Love* his wife, administratrix of the goods and chattels which belonged to *Christopher C.* at the time of his death, who, as it is said, died intestate, and *Edward T. Knt.* otherwise called *Edward T. Knt.* of the parish of *St. Martin in the Fields* in the county of *Middlesex*, in a plea that the same *Edward* do render to the said *William* and the administratrix 500 *l.* as it is said, a manifest error hath happened, to the great damage of him the said *Edward*, as by his complaint we have understood; the record and proceedings of which said judgment before our justices of the Common Bench and the barons of the Exchequer who are of the degree of the coif, to correct error in the same, according to the form of the statute of the 27th year of

of the Lady *Elizabeth*, late Queen of *England*, &c. thereof provided, we caused to be brought into our Exchequer chamber: And whereas after the judgment aforesaid was obtained, the said *William* at *London* in the parish of *St. Mary le Bow* in the ward of *Cheape* died, and the said *Love* survived him: Therefore we command you, as we have before commanded you, that by good and lawful men of your bailiwick you give notice to the said *Love*, that she be before our justices of the Common Bench and the barons of our Exchequer aforesaid in our Exchequer chamber aforesaid on *Saturday* the 4th day of *May* next ensuing, to hear the record and proceedings aforesaid, if she shall think fit, and farther to do and receive what our same justices and barons shall then and there consider in this behalf; And have there the names of those by whom you shall give her notice, and this writ. Witness *George Treby*, Knt. at *Westminster* 13th day of *April* in the 7th year of our reign.

Weary.

A *NNE*, &c. To the sheriffs of *London*, greeting: Whereas *T. R. Esq.* lately in the *Scire facias* court of the Lord and Lady *William* and *Mary*, late King and Queen of *England*, &c. in debt for an before the late King and Queen themselves at *Westminster*, by bill, without the writ of the executrix a- same late King and Queen, and by the judgment of the same court, recovered against gainst an exe- *Richard G. Bart. Viscount Preston* within the kingdom of *Scotland*, otherwise called, &c. cutrix on a judgment re- 5200 l. debt, and 13 l. 13 s. for his damages which he sustained as well by reason of the covered by the detention of that debt, as for his costs and charges by him about his suit in that behalf ex- testator in a- tended, whereof the same *Richard* is convicted, as it appears to us on record: And after- former King's reign. wards the said *Thomas R.* at *London* in the parish of *St. Mary le Bow* in the ward of *Cheape* made his last will and testament in writing, and by the same constituted *Mary R.* sole executrix thereof, and afterwards there died, the same *Thomas R.* not being satisfied the debt and damages aforesaid: And afterwards the said *Richard* at *London* in the parish of *St. Mary le Bow* in the ward of *Cheape* made his last will and testament in writing, and by the same constituted the Lady *Anne G.* widow, his wife, executrix thereof, and afterwards there died: And now on the behalf of the said *Mary R.* we have in our court before us understood, that altho' the judgment aforesaid is given, nevertheless execution of that judgment yet remains to be made for her; wherefore the same *Mary* hath besought us to grant her her proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by good and lawful men of your bailiwick you give notice to the said *Anne G.* that she be before us at *Westminster* on day next after to shew, if she hath or can say any thing for herself, why the said *Mary R.* ought not to have her execution against her for the debt and damages aforesaid, of the goods and chattels which belonged to the said *Richard G.* at the time of his death in her hands to be administrated, according to the force, form and effect of the recovery aforesaid, if she shall think fit, and farther to do and receive what our court before us shall then and there consider concerning her in this behalf; And have there then the names of those by whom you shall give her notice, and this writ. Witness, &c.

W *ILLIAM*, &c. To the sheriffs of *London*, greeting: Whereas *John C.* lately in our *Scire facias* on court before us at *Westminster*, by bill, without our writ, and by the judgment of judgment in debt. the same court, recovered against *Thomas H.* of the *Middle Temple, London*, Esq; 407 l. debt, and also 70 s. for his damages which he sustained as well by reason of the detention of that debt, as for his costs and charges by him about his suit in that behalf expended, whereof the same *Thomas* is convicted, as it appears to us on record: And now on the behalf of the said *John* we have in our court before us understood, that altho' the judgment thereof is given, yet execution for the debt and damages aforesaid still remains to be made for him; wherefore the same *John* hath implored us to grant him his proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by good and lawful men of your bailiwick you give notice to the said *Thomas* that he be before us at *Westminster* on day next after to shew if he hath or can say any thing for himself why the said *John* ought not to have his execution against him for the debt and damages aforesaid, according to the force, form and effect of the recovery aforesaid, if he shall think fit, and farther to do and receive what our same court before us shall then and there consider concerning him in this behalf; And have there then the names of those by whom you shall give him notice, and this writ. Witness, &c.

William,

*Scire facias in
debt for an
executrix.*

William, &c. To the sheriff of *Middlesex*, greeting: Whereas *Elizabeth J.* widow, executrix of the last will and testament of *Edward J.* her late husband, deceased, lately in our court, and of the Lady *Mary* our late Queen at *Westminster*, by bill, without our writ, and of our said late Queen, and by the judgment of the same court recovered against *John T.* otherwise called, &c. 400 l. debt, and 23 s. for her damages, which she sustained, as well by reason of the detention of that debt as for her costs and charges by her about her suit in that behalf expended, whereof the same *John* is convicted, as it appears to us on record: And now on the behalf of the said *Elizabeth*, we have in our court before us understood, that although judgment thereof is given, execution nevertheless for the debt and damages aforesaid yet remains to be made for her; wherefore the same *Elizabeth* hath besought us to grant her her proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you that by good and lawful men of your bailiwick you give notice to the said *John* that he be before us at *Westminster* on *Wednesday* next after 15 days of *Easter*, to shew if he hath or can say any thing for himself why the said *Elizabeth* ought not to have her execution against him for the debt and damages aforesaid, according to the force, form and effect of the recovery aforesaid, if he shall think fit; and further to do and receive what our same court before us shall then and there consider concerning him in this behalf; And have there then the names of those by whom you shall give him notice, and this writ. Witness, &c.

*Scire facias a-
gainst an ad-
ministrators in
case.*

ANNE, &c. To the sheriff of *Middlesex*, greeting: Whereas *Robert S.* lately in our court before us at *Westminster* by bill, without our writ, and by the judgment of the same court recovered against *John H.* 50 l. for his damages which he sustained, as well by reason of the non-performance of certain promises and assumptions by him the said *John* to the said *Robert* made, as for his costs and charges by him about his suit in that behalf expended, whereof the same *John* is convicted, as it appears to us on record: And now on the behalf of the said *Robert* in our court before us, we have understood, that although judgment thereof is given, execution nevertheless of that judgment yet remains to be made for him; and the said *John* is dead, and died intestate, and that administration of all and singular the goods and chattels, rights and credits which belonged to the said *John* at the time of his death, was, after his death, at *Westminster* in your county, in due form of law committed to *Mary H.* the widow and relict of him the said *John*, as we have likewise by the suggestion of the said *Robert* in our court before us understood: Wherefore the same *Robert* hath besought us to grant him his proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by good and lawful men of your county you give notice to the said *Mary* that she be before us at *Westminster* on *Saturday* next after the octave of the Holy *Trinity*, to shew if she hath or can say any thing for herself why the said *Robert* ought not to have his execution against her for the damages, costs and charges aforesaid, of the goods and chattels which belonged to the said *John* at the time of his death in her hands to be administered according to the force, form and effect of the recovery aforesaid, if she shall think fit; and further to do and receive what our same court before us shall then and there consider concerning her in this behalf; And have there then the names of those by whom you shall give her notice, and this writ. Witness, &c.

*Scire facias
quare execu-
tionem non in
debt on a
judgment re-
moved out of
the Common
Pleas by writ
of error in
K. B.*

William, &c. To the sheriff of *Middlesex*, greeting: Whereas *Marmaduke A.* lately in our court before *Edward N. Knt. J. P. Knt. and J. B. Knt.* our justices of the bench at *Westminster*, by our writ, and by the judgment of the same court, recovered against *Michael A.* of the parish of *St. Paul Covent-garden* in the county of *Middlesex*, Gent. 200 l. debt, and also 60 s. for his damages which he sustained, as well by reason of the detention of that debt, as for his costs and charges by him about his suit in that behalf expended, whereof the same *Michael* is convicted, as by the inspection of the record and proceedings thereof, which we lately for certain causes of error caused to be brought into our court before us, appears to us on record; and now on the behalf of the said *Marmaduke*, in our court before us, we have understood, that although judgment aforesaid in form aforesaid is given, execution nevertheless for the debt and damages aforesaid yet remains to be made to him; wherefore the same *Marmaduke* hath besought us to grant him his proper remedy in this behalf; and we being willing that what is just in this behalf should be done, command you, that by good and lawful men of your bailiwick you give notice to the said *Michael* that he be before us from the day of

to
shew

shew if he hath or can say any thing for himself why the said *Marmaduke* ought not to have his execution against him for the debt and damages aforesaid, according to the force, form and effect of the recovery aforesaid, if he shall think fit, and farther to do and receive what our same court before us shall then and there consider concerning him in this behalf; And have there the names of those by whom you shall give him notice, and this writ. Witness, &c.

William, &c. To the mayor and bailiffs of our town of *North'ton*, greeting: Whereas *Peter L.* lately in our court of the town aforesaid before you, without our writ, and by the judgment of the same court, recovered against *Francis S. Esq;* 37 l. 6 s. 9 d. for his damages which he sustained as well by reason of the non-performance of certain promises and assumptions to the same *Peter L.* by the said *Francis* lately made, as for his costs and charges by him about his suit in that behalf expended, whereof the same *Francis* is convicted, as by the inspection of the record and proceedings thereof in our court of record of the town aforesaid, which we lately for certain causes of error caused to be brought before us, appears to us on record: And now on the behalf of the said *Peter L.* in our said court of record of the town aforesaid before you we have understood, that altho' the judgment aforesaid in form aforesaid is given, yet execution for the damages aforesaid still remains to be made to him; wherefore the same *Peter L.* hath besought us to grant him his proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by good and lawful men of the bailiwick of the town aforesaid you give notice to the said *Francis S.* that he be before us from the day of _____ wherefoever, &c. to shew if he hath or can say any thing for himself why the said *Peter L.* ought not to have his execution against him for the damages aforesaid, according to the force, form and effect of the recovery aforesaid, if he shall think fit, and farther to do and receive what our same court before us shall then and there consider concerning him in this behalf; And have there then the names of those by whom you shall give him notice, and this writ. Witness *J. Holt*, Knt. at *Westminster* 12th day of *February* in the 13th year of our reign. Otherwise on a judgment in an inferior court.

ANNE, &c. To the sheriffs of *London*, greeting: Whereas *George O.* by plaint in the court of the Lord *William the Third*, late King of *England*, &c. before *Thomas Trevor*, Knt. and his companions, our justices of the same late King of the Bench at *Westminster*, and by the judgment of our court of the Bench aforesaid, recovered against *S. S.* late of, &c. *J. B.* late of, &c. and *W. K.* late of, &c. 407 l. 10 d. for his damages which he sustained, as well by reason of the non-performance of certain promises and assumptions by them the said *S. J.* and *W.* to the same *George* lately made, as for his costs and charges by him about his suit in that behalf expended, whereof the said *S. J.* and *W.* are convicted, as by the inspection of the record and proceedings thereof, which we lately for certain causes of error caused to be brought into our court before us, appears to us on record: And now on the behalf of the said *George* in our court before us we have understood, that although judgment thereof is given, execution nevertheless of the judgment aforesaid yet remains to be made to him: Wherefore the same *George* hath besought us to grant him his proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by good and lawful men of your bailiwick you give notice to the said *S. J.* and *W.* that they be before us from the day of *St. Michael* in three weeks, wherefoever, &c. to shew if they have or can say any thing for themselves why the said *George* ought not to have his execution for the damages aforesaid against the said *S. J.* and *W.* according to the force, form and effect of the recovery aforesaid, if they shall think fit, and farther to do and receive what our same court before us shall then and there consider concerning them in this behalf; And have there the names of those, &c. Otherwise in case on a judgment in C. B. in the time of the late King removed by error into K. B.

William, &c. To the sheriff of *North'ton*, greeting: Whereas *John A.* lately in our court, to wit, in *Michaelmas* term in the fifth year of our reign before *George Treby*, Knt. and his companions, then our justices of the Bench at *Westminster*, by our writ, and by the judgment of the same court, recovered against *Robert C.* late of _____ and *M.* his wife, *Abraham W.* late of _____ and *Eleanor W.* late of _____ spinster, 13 l. which were adjudged to the same *John* in our said court of Common Bench at *Westminster* for his damages which he sustained by reason of certain trespasses to the same *John* by the said *Robert* and *M. Abraham* and *Eleanor*, with force and arms, and against our peace, at *Lilborne* aforesaid done, whereof they were convicted, as by the inspection of the record and proceedings thereof, which into our court Scire facias quart restitutionem non on a judgment reversed in K. B.

court before us at *Westminster* for certain causes of error to be corrected in the same we caused to be brought, appears to us on record: And whereas we for sundry errors in the record and proceedings aforesaid, and also in the rendition of the judgment aforesaid found, the judgment aforesaid have reversed and wholly annulled: And it is farther considered in our same court before us at *Westminster* aforesaid, that the said *Robert, Mary, Abraham* and *Eleanor*, be restored to all things which they have lost by reason of the judgment aforesaid: And now in our court before us, on the behalf of the said *Robert, Mary, Abraham* and *Eleanor*, we have understood, that the said *John* hath sued out his execution for the damages aforesaid by reason of the judgment aforesaid in our court of the Bench aforesaid given, and of the damages aforesaid yet is possessed, to wit, at *Lilborne* aforesaid in the county aforesaid; whereupon the same *Robert, Mary, Abraham* and *Eleanor*, have besought us to grant them their proper remedy in this behalf: And we in this behalf being willing that what is just should be done, command you, that by good and lawful men of your bailiwick you give notice to the said *John* that he be before us to shew if he hath or can say any thing for himself why the said *Robert, Mary, Abraham* and *Eleanor*, ought not to have restitution of the damages aforesaid, according to the force, form and effect of the judgment aforesaid in our said court before us given, and farther to do and receive, &c.

Scire facias against the late sheriffs, why they should not pay the money levied on a fieri facias.

William and Mary, &c. To the sheriff of *Wilts*, greeting: Whereas the Lord James the Second, late King of *England*, by his writ reciting, that he had lately commanded his sheriffs of *Bristol*, that they should cause to be made of the goods and chattels of *E. S. Esq*; otherwise called *E. S. of O.* in your county, *Esq*; in their bailiwick, 400 *l.* debt which *E. C.* lately in the court of the said late Lord the King before the late King himself at *Westminster* had recovered against him, and also 43 *s.* 4 *d.* which in the same court of the said late Lord the King before the late King himself at *Westminster* were adjudged to the same *E. C.* for his damages which he had sustained as well by reason of the detention of that debt, as for his costs and charges by him about his suit in that behalf expended, whereof he is convicted, as to the said late Lord the King appeared on record; and that they should have that money before the said late Lord the King at *Westminster* on a certain day in the same writ contained, to be paid to the said *E. C.* for his debt and damages aforesaid; and his said sheriffs of *Bristol* did thereon return to the said late Lord the King, that the said *E. S.* had no goods or chattels in their bailiwick whereof they could cause to be made or levied the debt and damages aforesaid, or any penny thereof; whereupon on the behalf of the said *E. C.* in the court of the said late Lord the King before the late King himself it was sufficiently testified, that the said *E. S.* had sufficient goods and chattels in your county whereof the debt and damages aforesaid might be levied: Therefore the said Lord James the Second, late King of *England*, did thereupon command the then sheriff of your county aforesaid, that he should cause to be made of the goods and chattels of the said *E. S.* in his bailiwick the debt and damages aforesaid, and that he should have that money before the said late King at *Westminster* on *Thursday* next after the morrow of *All Souls* in the fourth year of his reign, to be paid to the said *E. C.* for his debt and damages aforesaid; upon which said writ *Jeremiah C. Esq*; then sheriff of your county aforesaid, returned, that by virtue of the writ aforesaid to him directed, he had taken goods and chattels of the said *E. S.* to the value of 216 *l.* of the said 400 *l.* and also of the 43 *s.* 4 *d.* parcel, as by the writ of *testatum fieri facias* aforesaid, and the return thereof in our court before us on record filed, more fully appears: And whereas because the said *J. C.* had not the said 216 *l.* before the said late Lord the King on the said day next after to be paid to the said *E. C.* in part of the debt and damages aforesaid, nor hath hitherto in any manner satisfied or paid them to the said *E. C.* as by the suggestion of him the said *E. C.* we have in our court before us understood: Therefore we command you, that by good and lawful men of your bailiwick you give notice to the said *Jeremiah C.* that he be before us on to shew if he hath or can say any thing for himself why the said *Edward C.* ought not to have his execution against him for the said 216 *l.* by him so as aforesaid levied, if he shall think fit, and farther to do and receive what our court before us shall then and there consider concerning him in this behalf; And have there then the names of those by whom you shall give him notice, and this writ. Witness, &c.

William and Mary, &c. To the sheriffs of London, greeting: Whereas Adam B. lately *Scire facias* on our writ, and by the judgment of the same court, recovered against Lionel W. late of London, Esq; otherwise called L. W. of H. in the county of H. Esq; 800*l.* debt, and also 40*s.* for his damages which he sustained as well by reason of the detention of that debt, as for his costs and charges by him about his suit in that behalf expended, whereof the said Lionel is convicted, as by the inspection of the record and proceedings thereof, which we lately caused to be brought into our court before us at Westminster by virtue of our writ of error, it appears to us on record: And whereas the said L. W. after the recovery of the judgment aforesaid, to wit, the 30th day of December in the first year of our reign, prosecuted out of our court of Chancery (the same court being then at Westminster in the county of Middlesex) our certain writ of error of and upon the judgment aforesaid to the said H. P. directed, returnable before us on the Octave of the Purification of the Blessed Mary last past, wherefoever we should then be in England; upon which said writ of error the record and proceedings of the judgment aforesaid, with all things touching them, were to us into our court before us at Westminster by the said Henry P. transmitted; upon which said record afterwards, to wit, in Trinity term last past it was in our court before us at Westminster considered, that the said Adam should have his execution against the said Lionel for the debt and damages aforesaid, according to the force, form and effect of the recovery aforesaid, by the default of him the said L. as by the record in our said court before us at Westminster on record remaining more fully appears: And whereas after the prosecution of the said writ of error, and before the return of the same, to wit, on the 23d day of January in Hillary term last past, L. W. of, &c. Knt. S. P. of, &c. clockmaker, and W. B. of, &c. Esq; came before the said H. P. our chief justice of the Bench aforesaid, at his chambers situate in the Inner Temple, London, and the said L. S. and W. acknowledged, and every of them acknowledged, that they severally owed to the said A. B. the sum of 1600*l.* which they granted, and every of them granted, to be levied on their and every of their lands and chattels, on condition nevertheless reciting, that whereas the said Lionel W. Esq; had prosecuted the said writ of error to the above named H. P. Knt. the chief justice of the court of Common Bench, directed for the certifying out of the court of Common Bench into the court of King's Bench the record and proceedings of the plea and judgment against the said L. W. in the said plea of debt 800*l.* Therefore the condition of that recognisance was such, that if the said L. W. by himself or his sufficient attorney should prosecute the said writ of error with effect, and also should satisfy and pay to the said A. B. (if the judgment aforesaid should be affirmed, or the said writ of error should be discontinued by the default of him the said Lionel, or if the said Lionel should be nonsuited) as well the said debt as all the said damages and costs upon the judgment aforesaid adjudged, and all such costs, damages, sum and sums of money, as should be adjudged upon or after the judgment affirmed, discontinuance or nonsuit had, then the recognisance aforesaid should be void and of no effect, or otherwise should remain in its full force and strength, as by the record of the recognisance aforesaid, which we have caused to be brought into our court before us, appears to us in our court before us at Westminster on record: And now on the part of the said Adam we have in our court before us understood, that the same L. W. Esq; hath not prosecuted his writ of error aforesaid with effect, nor paid and satisfied to him the said Adam the said 800*l.* whereby the recognisance aforesaid remains against them the said L. S. and W. in its full force and strength: Therefore we command you, that by good and lawful men of your bailiwick you give notice to the said L. S. and W. that they be before us on the morrow of All Souls, wherefoever, &c. to shew if they have or can say any thing for themselves why the said Adam ought not to have his execution against them for the said 1600*l.* as aforesaid acknowledged, according to the force, form and effect of the recognisance aforesaid, if they shall think fit, and farther to do and receive all and every thing which our same court before us shall then and there consider concerning them in this behalf; And have there then the names of those by whom you shall give them notice, and this writ. Witness, &c.

William,

Scire facias to hear the record on a writ of error out of C. B. on a judgment against the heir and tertenant on a *scire facias*.

William, &c. To the sheriff of *Stafford*, greeting: Whereas lately in our court before *Edward H. Knt.* and his companions, justices of the Lord *James* the Second, late King of *England*, &c. of the Bench at *Westminster* it was considered, that *William G.* son and executor of the last will and testament of *W. G.* his father deceased, should have execution against *Lewis D.* and *Mary D.* tenants of the lands and tenements of *Lewis D.* late of, &c. then deceased, as well for a certain debt of 600 *l.* as 7 *l.* which to the same *William* the father in the said court of Common Bench, before *O. St. John* and his companions, justices of the Lord *Charles* the First, late King of *England*, &c. at *Westminster* were adjudged against him the said *L.* deceased, for his damages which he had sustained by reason of the detention of that debt, whereof the same *L.* and *Mary* the tertenants on a writ of *scire facias* against the tenants of the lands and tenements of the said *L.* deceased, on the judgment aforesaid issued are convicted: And because in the adjudication of the execution aforesaid a manifest error hath happened in the record and proceedings of that adjudication, to the great damage of the said *L.* the tertenant and *Mary*, as by the complaint of the said *L.* and *Edward C.* which said *Edward* afterwards took the said *Mary* for his wife, we have understood, the record of which said judgment and writ of *scire facias* we lately caused to be brought before us for certain causes of error, appears to us on record: Therefore we command you, that by good and lawful men of your bailiwick you give notice to the said *W. G.* the son, that he be before us on the morrow of *St. Martin*, wheresoever, &c. to hear the record and proceedings aforesaid, if he shall think fit, and farther to do and receive, &c.

The like to hear errors on a writ of error to reverse an outlawry in K. B.

William, &c. To the sheriffs of *London*, greeting: Whereas *T. C.* the elder, Gent. lately in our court before us impleaded *T. C.* late of *London* the younger, Gent. in a plea, why, &c. (*recite the writ to*) to the damage of him the said *T. C.* the elder 100 *l.* as it is said: And the same *T. C.* the younger, because he did not come before us to answer the said *T. C.* the elder therein, was put in *exigent*, and in the huffings of *London* on that account was afterwards outlawed, as by the inspection of the record and proceedings thereof in our court before us remaining manifestly appears: And because on the part of the said *T. C.* the younger, as we are informed, a manifest error hath happened in the record and proceeding, and also in the pronouncing of the outlawry aforesaid; and thereupon the same *T. C.* the younger hath prosecuted our writ of error, directed to our justices assigned to hold pleas before us, commanding them, that inspecting the record and proceedings aforesaid, they farther cause to be done therein for the annulling of the outlawry aforesaid what of right and according to the law and custom of this kingdom of *England* shall be to be done; and the same *T. C.* the younger hath thereupon duly assigned his errors on record, as by the inspection thereof likewise appears to us: Therefore we command you, that by good and lawful men of your bailiwick you give notice to the said *T. C.* the elder, that he be before us from the day of *Easter* in five weeks, wheresoever, &c. to hear the record and proceedings aforesaid, and also the errors in the pronouncing of the outlawry aforesaid assigned, if he shall think fit, and farther to do and receive what our same court before us shall then and there consider concerning him in this behalf; And have there the names of those by whom you shall give him notice, and this writ. Witness *J. Holt*, Knt. at *Westminster* 11th day of *May* in the 10th year of our reign.

Holt. Coleman.

Scire facias against bail on a recognisance on a writ of error in the Exchequer chamber.

William, &c. To the sheriff of *Middlesex*, greeting: Whereas *F. T.* of, &c. and *J. W.* of, &c. on the second day of *May* in *Easter* term in the fourth year of our reign came into our court before us at *Westminster* in their proper persons, and according to the form of the statute to prevent unnecessary delays of execution thereof made and provided, acknowledged they owed, and each of them for himself acknowledged he owed, to *Humphry T.* Gent. 202 *l.* of lawful money of *England*, to be paid to the said *Humphry*, his executors or assigns; and unless they did, the same *E.* and *J.* granted, and each of them for himself granted, the said 202 *l.* to be made on their and each of their lands and chattels, and levied to the use of him the said *Humphry* on the condition following: That whereas the said *H. T.* lately in our court before us at *Westminster*, by bill,

bill, without our writ, and by the judgment of the same court, had recovered against *J. J. Gent.* 10*l.* for his damages which he had sustained as well by reason of a certain trespass on the case, to the said *Humphry* by the said *J. J.* done, as for his costs and charges by him about his suit in that behalf expended, whereof the said *J. J.* is convicted, as in our said court before us appears on record: And whereas the said *J. J.* had prosecuted our writ of error upon the judgment aforesaid, returnable before our justices of the Common Bench and the barons of our Exchequer of the degree of the coif in our Exchequer chamber on, &c. If therefore the said *J. J.* should prosecute the said writ of error with effect, and if the judgment aforesaid should be affirmed against the said *J. J.* then if the same *J. J.* should satisfy and pay to the said *H. T.* the damages aforesaid, and also all such costs and damages as should be adjudged to the said *H. T.* by reason of the delay of his execution upon the judgment aforesaid on the pretence of the prosecution of the said writ of error; then that recognisance should be void and of none effect, or else should remain in its full strength and effect, as by the record thereof in our said court before us at *Westminster* remaining manifestly appears: And whereas also the judgment aforesaid afterwards, to wit; in *Hilary* term last past in our Exchequer chamber aforesaid before the justices and barons aforesaid was duly affirmed, and 10*l.* to the same *H. T.* in our same Exchequer chamber before the justices and barons aforesaid, according to the form of the statute thereof made and provided, were adjudged for his damages, costs and charges which he had by reason of the delay of his execution of the judgment aforesaid on the pretence of the prosecution of the said writ of error, as by the record and proceedings thereof by the said justices and barons, according to the form of the statute aforesaid, from our said Exchequer chamber into our said court before us at *Westminster* remitted, and in our same court before us remaining manifestly appears: And the said *J. J.* hath neither paid nor satisfied to the said *H. T.* either the damages aforesaid by him the said *H. T.* in our said court before us in form aforesaid recovered, nor the said 10*l.* to the same *H. T.* in our said Exchequer chamber in form aforesaid adjudged, as we have by the suggestion of the said *H.* in our court before us understood; wherefore the same *H.* hath besought us to grant him his proper remedy in this behalf: And we in this behalf being willing that what is just should be done, command you, that by good and lawful men of your bailiwick you give notice to the said *E. T.* and *J. W.* that they be before us at *Westminster* on _____ to shew if they have or can say any thing for themselves; why the said 20*l.* by them in form aforesaid acknowledged ought not to be made of their lands and chattels, and levied to the use of the said *H. T.* according to the force, form and effect of the recognisance aforesaid, if they shall think fit; and farther to do and receive all and singular those things which our court before us shall then and there consider concerning them in this behalf; And have there then the names of those by whom you shall give them notice; and this writ. Witness, &c.

William, &c. To the sheriff of *Middlesex*, greeting: Whereas *T. A.* the younger, *Scire facias* Gent. lately in our court before *E. N. Knt.* and his companions, our justices of for an administratrix on the Bench at *Westminster*; by our writ, and by the judgment of the same court, recovered a judgment against *W. S.* 18*l.* 19*s.* 8*d.* debt, and also 17*l.* for his damages which he sustained as recovered by well by reason of the detention of that debt; as for his costs and charges by him about his the intestate suit in that behalf expended, whereof he is convicted; as by the inspection of the record in C. B. and proceedings thereof, which we lately for certain causes of error caused to be brought affirmed on a writ of error into our court before us at *Westminster* appears to us on record, and likewise 9*l.* which to the same *Thomas* in our same court before us at *Westminster* aforesaid, according to the form of the statute thereof lately made and provided, were adjudged for his damages; costs and charges which he had by reason of the delay of execution of the judgment aforesaid, on pretence of the prosecution of our certain writ of error by the said *W. S.* against him the said *T. A.* of and upon the premisses prosecuted, upon which said writ of error the judgment aforesaid against the said *W. S.* is in all things affirmed, as appears likewise to us on record: And whereas the same *T. A.* afterwards, to wit, on the first day of *May* in the year of the Lord 1693, at the parish of _____ in your county; died intestate; and afterwards, to wit, on _____ in the year of the Lord 1694; administration of all and singular the goods and chattels, rights and credits, which belonged to the said *T. A.* at the time of his death, to *Judith A.* by *Thomas P. Knt.* in and thro' the whole achdeanary of *London* official lawfully constituted (to whom the commission of administration aforesaid did of right belong) at the parish of _____ in your county aforesaid was in due form of law committed: And whereas on the behalf of the said *Judith* we have in our court before us understood, that altho' judgment thereof is in form aforesaid given, execution nevertheless for the debt and several damages, costs and charges aforesaid yet remains to be made to her; wherefore the said *Judith* hath besought us, &c.

The entry of the pleading on a *scire facias* brought by an administrator on a judgment in case in K. B. affirmed in the Exchequer chamber.

England, to wit. **T**HE Lord the King sent to the sheriffs of *London* his writ close in these words, to wit, *Charles, &c.* To the sheriffs of *London*, greeting: Whereas *John B.* lately in our court before us at *Westminster*, by bill, without our writ, and by the judgment of the said court, recovered against *Jonathan W.* 100*l.* 10*s.* for his damages which he sustained as well by reason of the non-performance of certain promises and assumptions by the said *Jonathan* to the same *John* lately made, as for his costs and charges by him about his suit in that behalf expended, whereof the same *Jonathan* is convicted, as appears to us on record, and also 11*l.* according to the form of the statute thereof lately made and provided, for his damages, costs and charges which he had by reason of the delay of execution of the judgment aforesaid, on the pretence of the prosecution of our certain writ of error by the said *Jonathan* against the said *J. B.* before our justices of the Bench and the barons of the Exchequer of the degree of the coif, according to the form of the statute in such case lately made and provided, prosecuted: And afterwards, to wit, on in the 32d year of our reign, at *London*, to wit, in the parish of *St. Mary le Bow* in the ward of *Cheape*, the said *John B.* died intestate; after whose death administration of all and singular the goods and chattels, rights and credits, which belonged to the said *John B.* at the time of his death, by *William* by divine providence archbishop of *Canterbury*, primate and metropolitan of all *England*, on the second day of *December* in the year of the Lord 1680, at *London* aforesaid in the parish and ward aforesaid, to one *Anne B.* widow and relict of the said *John B.* was committed, as by the suggestion of the said *Anne* in our court before us we have understood; and altho' judgment thereof is given, execution nevertheless for the damages aforesaid yet remains to be made for her; wherefore the same *Anne* hath besought us to grant her a proper remedy in this behalf: And we in this behalf being willing that what is just should be done, command you, that by good and lawful men of your bailiwick you give notice to the said *Jonathan W.* that he be before us at *Westminster* on *Tuesday* next after 15 days of *St. Hillary*, to shew, if he hath or can say any thing for himself, why the said *Anne* ought not to have her execution against him for the damages aforesaid, according to the form and effect of the recovery aforesaid, if he shall think fit, and farther to do and receive what our same court before us shall then consider concerning him in this behalf; And have there then the names of those by whom you shall give him notice, and this writ. Witness *W. Scroggs*, Knt. &c.

Henley.

The return. On which day before the Lord the King at *Westminster* comes the said *Anne* in her proper person; and the sheriffs of *London*, to wit, *H. C. Esq;* and *S. B. Esq;* return, that they, by virtue of the writ aforesaid to them therefore directed by *P. P.* and *J. D.* good and lawful men of their bailiwick, had given notice to the said *Jonathan W.* that he should be before the Lord the King on the day and place aforesaid, to shew, according to the command of that writ, as they were within commanded; and the said *Jonathan W.* on the same day by *R. R.* his attorney comes and says, that the said *Anne* ought not to have her execution against him for the damages, costs and charges aforesaid, because he says, that there is not any such record of the recovery of the damages, costs and charges, as by the writ aforesaid is above supposed: And this he is ready to verify: Wherefore he prays judgment if the said *Anne* ought to have her execution against him for the damages, costs and charges aforesaid, &c.

Repl' that there is.

And the said *Anne* says, that she by any thing by the said *Jonathan* above in pleading alledged ought not to be precluded from having her execution against him for the damages, costs and charges aforesaid, because she says, that there is such record of the recovery aforesaid in the court of the said Lord the King before the King himself of record remaining of *Hillary* term in the 31st and 32d years of the reign of the said Lord the King, Roll 829. and prays, that that term and roll by the court of the said Lord the King may be seen and inspected: And because the court of the said Lord the King here are not yet advised to give their judgment thereon, day therefore is given to the parties aforesaid until day next after

Q. The shewing of the record.

to hear their judgment on that issue, because the court of the said Lord the King thereof not yet, &c. On which day before the said Lord the King at *Westminster* come the parties aforesaid; and the same *Anne* shews here in court the record of the recovery aforesaid remaining before the Lord the King here of the term and roll aforesaid; which being read, and by the court of the said Lord the King

King here fully examined and understood, it sufficiently appears that that record is the record of the recovery aforesaid in the writ aforesaid mentioned: Therefore it is considered, that the plaintiff may have her execution against the said *Jonathan* for the damages aforesaid, according to the force, form and effect of the recovery aforesaid, &c.

A NNE, &c. To the sheriff of *Middlesex*, greeting: Whereas your predecessor our late Sheriff of *Middlesex* was commanded, that he should take *W. G.* late of *Westminster*, Esq; otherwise called *W. G.* of the *Middle Temple*, Esq; if, &c. and safely, &c. so that he might have his body before our justices at *Westminster* on the Octave of *St. Hillary*, to satisfy *A. S.* as well a certain debt of 200*l.* which the same *A.* in our court before our justices at *Westminster* recovered against him, as 12*l.* which to the same *A.* in our court were adjudged for his damages which he sustained by reason of the detention of that debt, whereof he was convicted; and on the same day came the said *A.* by his attorney, and offered himself the fourth day of plea against the said *W. G.* in the plea aforesaid, and he did not come; and the sheriff then returned, that he was not found: Therefore the sheriff was commanded, that he should cause the said *W. G.* to be called from county to county, until, &c. so that he might have his body on the morrow of the Holy *Trinity*, to satisfy the said *A.* in the plea aforesaid: And be it known, that the justices in our said court in that same term delivered the writ thereof to the under-sheriff of your county aforesaid in form of law to be executed, &c. On which day your same predecessor the sheriff returned, that at his county held at the *Hercules Pillars* in *Brook-street* in the county aforesaid on the third day of *June* in the second year of our reign, the said *W. G.* was the fifth time called, and did not appear; and so at the four counties then next preceding, the same *W.* was likewise called, and did not appear; and because he did not appear at any of the said counties, therefore he was outlawed, as by the record and proceedings thereof, which we have lately caused to be brought into our court before us for certain causes of error, appears to us on record; and the same *W. G.* hath thereupon duly assigned errors on record, as by the inspection of the record thereof appears likewise to us on record: Therefore we command you, that by good and lawful men of your bailiwick you give notice to the said *A. S.* that he be before us from the day of _____ wheresoever, &c. to hear the record and proceedings aforesaid, and also the errors in the pronouncing of the outlawry aforesaid, if he shall think fit, and farther to do and receive what our same court before us shall then and there consider concerning him in this behalf; And have there the names of those by whom you shall give him notice, and this writ. Witness *J. Holt*, Knt. &c.

Scire facias to hear errors assigned on an outlawry pronounced.

A NNE, &c. To the sheriff of *Middlesex*, greeting: Whereas *R. S.* lately in our court before us at *Westminster*, to wit, in *Michaelmas* term last past, by bill, without our writ impleaded *J. H.* then being in the custody of the marshal of our *Marshalsey* before us, for this, to wit, that whereas (*recite the declaration*) to the damage of him the said *R. 40l.* as he said: And therefore he then produced the suit, &c. And it was in such manner in our same court before us at *Westminster* proceeded, that the said *R.* ought to recover his damages by reason of the non-performance of the several promises and assumptions aforesaid: But because it was not known to our court before us what damages the same *R.* had sustained by reason of the premises aforesaid, therefore we commanded you, that by the oath of 12 good and lawful men of your bailiwick you should diligently inquire what damages the said *R.* had sustained as well by reason of the non-performance of the several promises and assumptions aforesaid, as for his costs and charges by him about his suit in this behalf expended; and the inquisition which you should make thereof should send to us at *Westminster* on *Wednesday* next after 15 days of *Easter* under your seal and the seals of those by whose oath you should take that inquisition, together with that writ; and the same day was given to the said *R.* before us at *Westminster* aforesaid, as by the record and proceedings thereof in our said court before us at *Westminster* remaining manifestly appears: And whereas before the said *Wednesday* next after 15 days of *Easter*, the said *J. H.* at *Westminster* aforesaid in your county aforesaid died intestate, and the inquiry of the damages aforesaid yet remains to be made; and one *M. H.* the widow and relict of him the said *J.* is administratrix of all and singular the goods and chattels, rights and credits, which belonged to the said *J. H.* her late husband deceased, as we have by the suggestion of the said *R. S.* understood: And because we are willing that those things which are lawfully transacted in our court before us should be carried into due execution, we command you, that by good and lawful men of your bailiwick you give notice to the said *M.* that she be before us at *Westminster* on *Saturday* next after the morrow of *All Souls*, to shew, if she hath or can say any thing for herself, why the damages aforesaid in the action aforesaid ought not to be assessed, and by the said *R.* recovered, according to the form

Scire facias against an administratrix, why damages should not be assessed where the defendant died before the return of the writ of inquiry.

form and effect of the statute in such case lately made and provided, if she shall think fit, and farther to do and receive, &c.

On which day before the Lady the Queen at *Westminster* comes the said *R.* by *M. T.* his attorney; and the sheriff of the county of *Middlesex*, to wit, *G. H. Knt.* and *J. W. Esq;* returns, that by *R. N.* and *J. S.* good and lawful men of his bailiwick, he had given notice to the said *M.* that she be before the said Lady the Queen on the day and place in the writ aforesaid contained, to shew, &c. according to the tenor of the writ aforesaid; which said *M.* so warned, on the same day being solemnly called by *J. B.* her attorney comes; whereupon the said *R.* prays that the damages aforesaid in the action aforesaid may be assessed, and by him the said *R.* recovered, &c.

Upon which the administratrix pleaded several judgments in bar; to which the plaintiff demurred, and she joined in demurrer; and judgment was thereon given for the plaintiff.
Salk. 315.

Scire facias in audita querela on the new statute in K. B.

A *NNE, &c.* To the sheriffs of *London*, greeting: Whereas by the grievous complaint of *J. D.* of *London*, ironmonger, (and so on in the audita querela to) whereupon the same *Joseph D.* hath most humbly besought us to grant him a proper remedy in this behalf: And because we are unwilling that the said *Joseph* should be in any wise injured in this behalf, and are willing that what is just should be done, we command you, that by good and lawful men of your bailiwick you give notice to the said *William S.* that he be before us on wheresoever, &c. to shew, if he hath or can say any thing for himself, why the said *Joseph* from the debt and damages aforesaid against him in form aforesaid recovered ought not to be quit, discharged, and out of our prison of the *Fleet*, in which he is on that account detained, released, if he shall think fit, and farther to do and receive what our court before us shall consider in this behalf; And have there the names of those by whom you shall give him notice, and this writ. Witness *J. Holt*, Knt. at *Westminster* 26th day of *May* in the 6th year of our reign.

Scire facias to revive a judgment in an assise of novel disseisin.

A *NNE, &c.* To the sheriff of *Middlesex*, greeting: Whereas *Nicholas W. Gent.* in the court of the Lord *William* the Third, late King of *England*, &c. before the late King himself at *Westminster*, by the writ of the said late King of assise of novel disseisin, which the said *N. W.* arraigned before the said late King at *Westminster* against *W. S. Esq;* and by the judgment of the same court, recovered against him the said *W. S.* his seisin of the office of marshal of the *Marshalsey* of the said late Lord the King, being before the King himself, with the appurtenances in the parish of *St. Margaret Westminster* in our county of *Middlesex*, by view of the recognisors of the assise aforesaid, whereon the same *W. S.* is convicted, as by the record and proceedings thereof remaining in our court before us is more fully manifest and appears: And now on the part of the said *N. W.* in our court before us we have understood, that altho' the judgment aforesaid in form aforesaid is given, execution nevertheless of that judgment yet remains to be made; wherefore the said *N. W.* hath besought us to grant him his proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by good and lawful men of your bailiwick you give notice to the said *W. S.* that he be before us at *Westminster* on *Saturday* next after the *Octave* of *St. Hillary*, to shew, if he hath or can say any thing for himself, why the said *N. W.* ought not to have a writ of seisin of the office aforesaid with the appurtenances of and upon the judgment aforesaid, according to the force, form and effect of the recovery aforesaid, if he shall think fit, and farther to do and receive what our court before us shall then and there consider concerning him in this behalf; And have, &c.

THE Lord and Lady the King and Queen sent to the sheriffs of *London* their writ ^{The entry of} close in these words, to wit, *William, &c.* To the sheriffs of *London*, greeting: ^{¶ scire facias} *Whereas Amy V. Gent.* lately in the court of the Lord *Charles* the First, late King of *England, &c.* before the late King himself at *Westminster*, by bill, without the writ of the ^{against the} said late King, and by the judgment of the same court, recovered against *Henry B.* then ^{heir and ten-} executor. ^{tenant for an} Bart. late merchant, otherwise called *H. B.* of *London*, merchant, 500*l.* debt; and also 45*s.* for his damages which he sustained as well by reason of the detention of that debt, as for his costs and charges by him about his suit in that behalf expended, whereof he is convicted, as it appears to us on record; execution nevertheless of that judgment yet remains to be made; and as well the said *A.* as the said *H.* are dead, as by the suggestion of *Edward V.* executor of the last will and testament of the said *A.* we have in our court before us understood; wherefore the same *Edward* hath besought us to grant him his proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by good and lawful men of your bailiwick you give notice to the tenants of all the lands and tenements in your bailiwick, whereof the said *H.* or any other person or persons, was or were seised to the use of the said *H.* on *Wednesday* next after 15 days of *Easter* in the 22d year of the reign of the said late King of *England, &c.* on which day the judgment aforesaid was given, or ever after, that they be before us at *Westminster* on *Tuesday* next after 15 days of *St. Martin*, to shew if they have or can say any thing for themselves why the said *E.* ought not to have his execution against them for the debt and damages aforesaid, to be levied on the lands and tenements which were his the said *H.* according to the force, form and effect of the recovery aforesaid, if they shall think fit, and farther to do and receive what our court before us shall then and there consider concerning them in this behalf; And have there then the names of those by whom you shall give them notice, and this writ. Witness *J. Holt*, Knt. at *Westminster* 23d day of *October* in the 4th year of our reign. *Henley.* On which day before the said Lord and Lady the King and Queen at *Westminster* comes the said *E.* in his proper person; and the sheriffs of *London*, to wit, *T. L.* Knt. and *T. C.* Knt. return, that there are no tenants or tenant of any lands or tenements in their bailiwick whereof the said *H.* or any other person or persons to the use of him the said *H.* was or were seised on the said day of the rendition of the judgment aforesaid, or ever after, to whom they could give notice, as they were by that writ commanded; whereupon on the behalf of the said *E.* in the court of the said Lord and Lady the now King and Queen before the King and Queen themselves it is sufficiently testified, that there are several tenants of lands and tenements in the county of *Oxford* whereof the said *H.* or some other person or persons to the use of the said *H.* and his heirs; was or were seised on the said day of the rendition of the judgment aforesaid, or afterwards: Therefore by another writ of the said Lord and Lady the King and Queen the sheriff of *Oxford* aforesaid was commanded, that by good, *&c.* he should give notice to the tenants of all the lands and tenements of the said *H.* in his bailiwick, of which the said *H.* or any other person or persons, was or were seised to the use of the said *Henry* on the said day of the rendition of the judgment aforesaid, or ever after, that they be before the said Lord and Lady the King and Queen at *Westminster* on *Monday* next after the *Octave* of *St. Hillary*, to shew in form aforesaid, if, *&c.* and farther, *&c.* The same day is given to the said *Edward* there, *&c.* On which day before the said Lord and Lady the King and Queen at *Westminster* comes the said *E.* in his proper person; and *T. C.* Esq; sheriff of the county of *Oxford* aforesaid, on that day returns, that by virtue of that writ to him directed by *J. G.* and *W. J.* good and lawful men of his bailiwick, he had given notice to *W. B.* Bart. tenant of 15 messuages, and 34 yard-lands arable, meadow and pasture, situate and being in *G.* in the county aforesaid, which were the lands and tenements of the said *H. B.* at the said time of the rendition of the judgment aforesaid; and afterwards that he be before the said Lord and Lady the King and Queen on the day and place aforesaid, to shew if he hath or can say any thing for himself why the debt and damages aforesaid ought not to be levied on the lands and tenements aforesaid with the appurtenances, and paid to the same *E.* as the writ aforesaid last mentioned commands and requires: And upon this the same *E.* produces here in court the letters testamentary of the said *Amy*; whereby it sufficiently appears to the court here, that he the said *E.* is executor of the will of the said *A.* aforesaid, and thereof hath the administration, *&c.* And he prays execution to be adjudged to him against the said *W. B.* Bart. for the debt and damages aforesaid on the lands and tenements aforesaid with the appurtenances to be levied, *&c.*

And the said *W. B.* on the same *Monday* next after the *Octave* of *St. Hillary*, being ^{The defen-} solemnly called by *J. L.* his attorney comes and says, that the said *E.* ought not to ^{dant appear.} have his execution against him for the debt and damages aforesaid of the lands and tenements aforesaid in the return of the writ of *scire facias* aforesaid mentioned, whereof

And pleads, whereof he is returned tenant, because he says, that the said *H. B.* in the same writ of *scire* that *H. B.* *facias* mentioned, or any other person or persons to the use of him the said *Henry* and his heirs at the time of the rendition of the judgment aforesaid in the same writ above mentioned, or ever after, was not nor were seised of the same lands and tenements, or of any parcel thereof, in demesne as of fee: And this he is ready to verify: Wherefore he prays judgment if the said *E.* ought to have his execution against him for the debt and damages aforesaid on the lands and tenements aforesaid, &c.

Replication, And the said *E. V.* says, that he by any thing by the said *W. B.* before alledged ought that he was. not to be retarded from having his execution against him the said *W.* for the debt and damages aforesaid on the lands and tenements aforesaid, because he says, that the said *H. B.* in his life-time after the rendition of the judgment aforesaid, to wit, on the first day of *January* in the 24th year of the reign of the said late King *Charles* the First, was seised of the said lands and tenements in his demesne as of fee: And this he prays may be inquired of by the country: And the said *William* thereof likewise, &c. Therefore the sheriff of *Oxford* is commanded, that he cause to come before the said Lord and Lady the King and Queen at *Westminster* on day next after 12 free and lawful men of the neighbourhood of *C.* aforesaid in the county of *Oxford* aforesaid, every of whom hath 10 *l.* of land, tenements or rent by the year at least, by whom the truth of the matter may be the better known, and who are in no wise related either to the said *E.* or the said *W.* to recognize on their oath of and upon the premises more fully the truth, &c. On which day before the Lord and Lady the King and Queen at *Westminster* comes as well the said *E.* in his proper person as the said *W. B.* by his attorney aforesaid; and the sheriff of the county of *Oxford* returns the writ of *venire facias*, together with the names of the jurors in all things served and executed, whereof none, &c. Therefore the sheriff of *Oxford* aforesaid is commanded, that he distrain the jurors aforesaid by all the lands, &c. and that of the issues, &c. so that he may have their bodies before the Lord and Lady the King and Queen at *Westminster* on *Wednesday* next after 15 days of *Easter*, or before the justices of the said Lord and Lady the King and Queen, assigned to take assises in the county aforesaid, if they shall first come on *Thursday* the 8th day of *March* at *Oxford* in the county aforesaid, by the form of the statute, &c. to recognize in form aforesaid: The same day is given to the parties aforesaid there, &c.

Scire facias for restitution after a judgment reversed on a writ of error in K. B. THE Lord the King sent to the sheriffs of *London* his writ close in these words, to wit, *William*, &c. To the sheriffs of *London*, greeting: Whereas *J. H. Gent.* one of the attornies of our court of the Bench at *Westminster*, lately in our same court of the Bench, to wit, in *Trinity* term in the 9th year of our reign, before *G. T. Knt.* and his companions, our justices of the Bench, by our writ of privilege, and by the judgment of the same court, recovered against *N. C.* as well a certain debt of 100 *l.* as 40 *s.* which were adjudged to the same *J.* for his damages which he sustained by reason of the detention of that debt, whereof he was convicted, as by the inspection of the record and proceedings thereof, which we lately caused to be brought before us for certain causes of error, appears to us on record; and we for sundry errors in the record and proceedings of the judgment aforesaid found have reversed the judgment aforesaid: And we have farther considered in our same court before us at *Westminster* aforesaid, that the said *N.* should be restored to all things which he hath lost by reason of the judgment aforesaid: And now on the behalf of the said *N.* in our court before us we have understood, that the said *J.* hath had execution for 63 *l.* 9 *s.* 6 *d.* part of the debt and damages aforesaid, by pretence of the judgment aforesaid in our said court of the Bench given, and of the said 63 *l.* 9 *s.* 6 *d.* is yet possessed; wherefore the said *N.* hath besought us to grant him a proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by good and lawful men of your bailiwick you give notice to the said *J.* that he be before us from the day of *St. Michael* in three weeks, wheresoever we shall then be in *England*, to shew if he hath or can say any thing for himself why the said *N.* ought not to have restitution of the said 63 *l.* 9 *s.* 6 *d.* and farther to do and receive all and singular those things which our same court before us shall consider concerning him in this behalf; And have there then the names of those by whom you shall give him notice, and this writ. Witness *J. Holt*, Knt. &c.

Holt. Coleman.

On which day before the Lord the King at *Westminster* comes the said *N. C.* in his proper person; and the sheriffs, to wit, *D. G. Knt.* and *J. S. Knt.* return, that the said *J.* had nothing in their bailiwick whereby they could give him notice, nor was he found in the same: And the said *J.* altho' on the same day solemnly called, doth not come: Therefore as before the sheriffs are commanded, that by good and lawful men of their bailiwick they give notice to the said *J.* that he be before the said Lord the King on soever he shall then be in *England*, to shew in form aforesaid: The same day is given to the said *N.* there, &c. On which day before the Lord the King at *Westminster* comes the said *N.* in his proper person; and the sheriffs of *London* aforesaid as before return, that the said *J.* had nothing in their bailiwick whereby they could give him notice, neither was he found in the same: And the said *J.* on the fourth day of plea being solemnly called by *H. W.* his attorney, comes and prays *oyer* of the said first writ of the said Lord the King of *scire facias*; and to him it is read: He prays likewise *oyer* of the said writ of the said Lord the King of *alias scire facias*; and to him it is read in these words, to wit, *William*, &c. (and so on verbatim to the end) which being read and heard, the same *J.* says, that the said *N. C.* ought not to have restitution of the said 63 l. 9 s. 6 d. in the said writs of *scire facias* and *alias scire facias* mentioned, or of any part thereof against him the said *J.* because he says, that he the same *J.* never levied in execution, nor was possessed of the said 63 l. 9 s. 6 d. in the said writs of *scire facias* and *alias scire facias* mentioned, or of any part thereof, by pretence of the judgment aforesaid in the said writs of *scire facias* and *alias scire facias* mentioned, given in the court of the Bench, and for errors in the court of the said Lord the King here reversed and annulled, as in the said writs of *scire facias* and *alias scire facias* is supposed: And this he is ready to verify, as, &c. Wherefore he prays judgment if the said *N.* ought to have restitution thereof against him the said *J.* by reason of the reversal and annulling of the judgment aforesaid, &c.

And the said *N. C.* says, that he by any thing by the said *J.* above in pleading alledged ought not to be precluded from having restitution of the said 63 l. 9 s. 6 d. because he says, that after the judgment aforesaid in form aforesaid given, and before the reversal thereof, to wit, in *Trinity* term in the ninth year of the reign of the Lord the now King, a certain writ of the said Lord the King of *feri facias* of and upon the judgment aforesaid now reversed, issued out of the court of the said Lord the King of the Bench at *Westminster* in the county of *Middlesex* to the then sheriff of the county of *Surry* directed, by which said writ the same then sheriff was commanded, that he should cause to be made the debt and damages aforesaid of the lands and chattels of the said *N. C.* and should have that money before the same Lord the King at *Westminster* on a certain day in *Michaelmas* term then next ensuing, to be paid to the said *J.* for the debt and damages aforesaid: By virtue of which said writ one *W. M. Esq.* afterwards and before the return of the writ aforesaid, to wit, on the 6th day of *September* in the year aforesaid, at *C.* in the said county of *Surry*, on the goods and chattels of the said *N. C.* caused to be levied the said sum of 63 l. 9 s. 6 d. and that sum to the same *J.* in part of satisfaction of that debt and his damages aforesaid, then and there paid (the same *W. M.* being then sheriff of the county of *Surry* aforesaid) of which said sum of 63 l. 9 s. 6 d. the same *J.* is yet there possessed: And this he is ready to verify: Wherefore he prays judgment and restitution of that sum to be adjudged to him, &c.

And the said *James* says, that *W. M. Esq.* in the plea of the said *N.* mentioned did not cause to be levied the sum of 63 l. 9 s. 6 d. or any part thereof, on the goods and chattels of the said *N. C.* in manner and form as the said *N. C.* hath above by replying alledged: And of this the same *J.* puts himself on the country.

William, &c. To the sheriff of *G.* greeting: Because in the record and proceedings, and also in the rendition of the judgment of a plea which was in the court of the Lord *Charles* the Second, late King of *England*, &c. of the great sessions in the said county of *G.* held before *R. L. Knt.* and *T. T. Esq.* then justices of the same late King, of *quod ei de forceat*, between *T. M. Esq.* and *P. W. Esq.* demandants, and *T. W. Esq.* de forceant, of the manors of with the appurtenances, and also of 500 messuages, 200 cottages, 500 barns, 500 stables, 500 orchards, 500 gardens, 15 water corn mills, six fulling mills, 6000 acres of land, 5000 acres of meadow, 6000 acres of pasture, four acres of wood, and five thousand acres of heath and furze with the appurtenances in the parishes of *L. L. L. N.* the town of *O.* &c. in the said county

of G. which said writ the said T. M. and P. W. had made protestation in the same court to prosecute in the form and nature of the writ of the same late King of entry on *disseisin in le poss* at the common law, according to the form of the statute of *Rutland*; and in which said plea W. H. and J. W. then tenants of the manors and tenements aforesaid with the appurtenances, and of the advowson aforesaid in the same court, vouched thereof to warranty P. who did warrant the same to them, and farther thereof vouched to warranty Uriab H. who did warrant them to him; which said record and proceedings the late King James the Second caused to be brought before him the said late King, and they now remain before us, a manifest error hath happened, to the great damage of T. P. and M. as by their complaint we have understood: And we being willing that the error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, command you, that by good and lawful men of your bailiwick you give notice to the said T. M. and P. W. that they be before us on the Octave of St. Hillary, whereforever we shall then be in *England*, to hear the record and proceedings aforesaid, if they shall think fit, and farther to do and receive what our said court before us shall consider in this behalf; And have there the names of those by whom you shall give them notice, and this writ. Witness, &c.

The return.

I do certify to the Lord the King within written, that the within named T. M. is dead, and that by D. T. and W. P. good and lawful men of my bailiwick, I have given notice to the within named P. W. that he be before the Lord the King within written on the day and place within contained, to hear the record and proceedings within written, if he shall think fit, and farther to do and receive what the court within named shall consider in this behalf, as I am within commanded.

Tho. Carne, Esq; Sheriff.

Plea, that A. and his wife are tenants not summoned.

And the said P. W. on the fourth day of plea being solemnly called, by J. L. his attorney comes and says, that before the issuing of the said writ of error in this behalf, and ever after hitherto, A. B. and C. his wife, the only daughter and heir of the said T. M. were seised, and yet are seised, in the right of the said C. of and in all and singular the manors, messuages, lands, tenements and hereditaments in the said writ of *scire facias* above specified in their demesne as of fee, and that no writ of *scire facias* hath issued out of the court here against the said A. B. and C. his wife, to warn them to be here to hear the record and proceedings aforesaid, as there ought: And this he is ready to verify: Wherefore for that the same A. B. and C. his wife are not summoned, nor in the said writ of *scire facias*, nor in the return aforesaid named tenants of the manors, messuages, lands, tenements and hereditaments aforesaid, the same P. W. prays judgment if he the same P. W. ought to be compelled to answer farther in the premisses before the said A. B. and C. his wife, shall be summoned to be before the Lord the King to hear the record and proceedings aforesaid, if they shall think fit, &c.

A *scire facias* against an administrator on a judgment in debt, where part was levied on a *scire facias* in the life-time of of the intestate.

William, &c. To the sheriffs of London, greeting: Whereas J. W. lately in our court before us at *Westminster*, by bill, without our writ, and by the judgment of the same court, recovered against P. O. Esq; otherwise called, &c. 200*l.* debt, and also 46*s.* for his damages which he sustained as well by reason of the detention of that debt, as for his costs and charges by him about his suit in that behalf expended, whereof the same P. is convicted, as it appears to us on record: And whereas for the levying of the debt and damages aforesaid of and upon the judgment aforesaid, we lately commanded you by our writ, that of the goods and chattels of the said P. in your bailiwick you should cause to be made the debt and damages aforesaid; and should have that money before us at *Westminster* on Friday in 15 days of St. Martin last past, to be paid to the said J. W. for his debt and damages aforesaid; and you on that day did thereon return to us, that the said P. had no goods or chattels in your bailiwick whereof you could cause to be made the debt and damages aforesaid, or any part thereof; whereupon on the behalf of the said J. in our court before us at *Westminster* it was sufficiently testified, that the said P. had sufficient goods and chattels in the county of *Kent*, whereof the debt and damages aforesaid might be levied: Therefore we did thereon command our sheriff of *Kent*, that he should cause to be made of the goods and chattels of the said P. in his bailiwick the said 200*l.* debt, and 46*s.* for the damages aforesaid; and that he should have that money before us at *Westminster* on Wednesday next after 15 days of *Easter*, to be paid

paid to the said *J.* for his debt and damages aforesaid; and our said sheriff of *Kent* on that day did return to us, that by virtue of the writ aforesaid to him directed, he had caused to be made of the goods and chattels of the said *P. O.* 70*l.* 15*s.* 6*d.* part of the debt and damages aforesaid; which said money he had ready on the day and place aforesaid, to be paid to the said *J. W.* as by the writ aforesaid he was commanded: And he did farther certify, that the said *P.* had no other or more goods and chattels in his bailiwick whereof he could cause to be made the residue of the debt and damages aforesaid, or any part thereof: And whereas the said *P. O.* afterwards died intestate, the said residue of the debt and damages aforesaid being then due and unpaid; and that administration of all and singular the goods and chattels, rights and credits, which belonged to the said *P. O.* at the time of his death, was, as we are informed, in due form of law committed to *Jane O.* the widow and relict of the said *P. O.* And now in our court before us we have understood, that execution for 131*l.* 10*s.* 6*d.* the residue of the said 202*l.* 6*s.* yet remains to be made for the same *J. W.* wherefore the same *J. W.* hath besought us to grant him his proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by good and lawful men of your bailiwick you give notice to the said *J. O.* that she be before us at *Westminster* on _____ day next after _____ to shew if she hath or can say any thing for herself why the said *J. W.* ought not to have his execution against her for the said 131*l.* 10*s.* 6*d.* (being the residue of the debt and damages aforesaid) of the goods and chattels which belonged to the said *P. O.* at the time of his death in the hands of the said *J.* to be administered, according to the force, form and effect of the recovery aforesaid, if she shall think fit, and farther to do and receive, &c.

THE Lord the King sent to the sheriff of *Kent* his writ close in these words, to wit, *A scire facias* *William, &c.* To the sheriff of *Kent*, greeting: Whereas an assise of *novel disseisin* was in an assise of lately summoned and taken before *E. W.* Knt. chief baron of our Exchequer, and *E. L.* Esq; for an assise of *novel disseisin* for that time associated to the same *E. W.* and *W. G.* Knt. then one of our justices assigned for an administrationatrix for damages adjudged in C.B. to hold pleas before us, our justices assigned to take assises in the county of *Kent*, by the form of the statute, &c. the presence of the said *W. G.* being not expected, by virtue of our writ of *Si non omnes*, &c. at *M.* in the county of *Kent*, by writ between *P. O.* Esq; and *R. S.* Gent. of *Freehold* in *M.* in the county of *Kent*; the record and proceedings of which and that judgment after reversed in K.B. said assise by several adjournments of the said justices of assise came into the court of the Bench at *Westminster*: And whereas also the said *Philip* afterwards in our same court, to wit, in *Hilary* term in the 8th year of our reign, before *G. T.* Knt. our chief justice of the Bench, and his companions, then our justices of the Bench aforesaid, by the consideration of the same court recovered his seisin against the said *Robert* of the office of clerk of the peace in and for the said county of *Kent*, by the view of the recognitors of the assise aforesaid, and his damages by reason of the disseisin aforesaid, besides his costs and charges, to 40*s.* by the recognitors aforesaid assessed, and also 67*l.* 15*s.* 5*d.* to the same *Philip*, at his request, by that court of increase adjudged; which said damages in the whole amount to 344*l.* 15*s.* 5*d.* which said record and proceedings after the rendition of the judgment aforesaid, we for certain reasons caused to be brought into our court before us, and that judgment by the same court before us was reversed, as it is said: And because in the reversal of that judgment before us a manifest error happened, to the great damage of him the said *Philip*, as by his complaint we have understood, we caused the record and proceedings aforesaid, with all things touching them, to be brought before us in our parliament: And afterwards, to wit, on the 3d day of *April* in the 11th year of our reign, it was considered by the court of parliament aforesaid, that the said judgment in our court before us, for the reversal and annulling of the judgment in our court before our justices of the Bench aforesaid given, for the errors in the reversal and annulling of the same judgment found, be reversed, annulled, and held as intirely void; and that the said judgment in our court before our justices of the Bench aforesaid be in all things affirmed, and that the same *Philip* be restored to all things that he lost by reason of the reversal and annulling of the same judgment; whereupon the record aforesaid, and also the proceedings aforesaid in the same court of parliament on the premisses had, are remitted into our court before us at *Westminster*: And whereas the said *Philip* afterwards, to wit, on the 7th day of the said month of *April* in the 11th year aforesaid died intestate; after whose death administration of all and singular the goods and chattels, rights and credits, which belonged to the said *Philip* at the time of his death, was by *Thomas* by divine providence archbishop of *Canterbury*, primate and metropolitan of all *England*, at *London* on the 24th day of the month of *April* in the year of the Lord 1699, committed to *Jane O.* the widow and relict of the said *Philip*, as by the letters of administration of the said archbishop in our court before us produced fully appears: And now on the behalf of her the said *Jane* in our court before us we have understood, that altho' the judgment in our court before our justices of the Bench aforesaid by the court of parliament aforesaid is in all things affirmed, execution nevertheless of the judgment aforesaid

aforesaid yet remains to be made for her in delay of the execution of the administration aforesaid: Wherefore the said *Jane* hath besought us to grant her a proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by good and lawful men of your bailiwick you give notice to the said *Robert S.* that he be before us on the morrow of the Ascension of the Lord, wheresoever we shall then be in *England*, to shew if he hath or can say any thing for himself why the said *Jane* ought not to have her execution against the said *Robert* for the damages aforesaid, according to the force, form and effect of the judgment aforesaid, in our court before our justices of the Bench aforesaid given, if he shall think fit, and farther to do and receive what our court before us shall consider in this behalf; And have there the names of those by whom you shall give him notice, and this writ. Witness *J. Holt*, Knt. at *Westminster* 26th day of *April* in the 11th year of our reign.

The return.

On which day before the Lord the King at *Westminster* comes the said *Jane* in her proper person; and the sheriff of *Kent*, to wit, *J. A.* Esq; on that day returns, that by virtue of the writ aforesaid to him directed, by *R. T.* and *T. A.* good and lawful men of his bailiwick, he had given notice to the said *Robert S.* that he be before the Lord the King on the day aforesaid, wheresoever, &c. to shew, &c. as by that writ he was commanded: And upon this the said *Jane* prays execution against the said *Robert S.* for the damages aforesaid, to be adjudged to her, &c. upon which the said *Robert S.* being so warned, and on the 4th day of plea solemnly called, in his proper person comes and prays judgment of the writ of *scire facias* aforesaid, because he says, that the writ of *scire facias* aforesaid, and the matter in the same contained, is insufficient in law to maintain her the said *Jane* to have her execution aforesaid against the said *Robert* for the damages aforesaid, to which said writ the same *Robert* hath no necessity, nor is by the law of the land obliged in any manner to answer: And this the same *Robert* is ready to verify: Wherefore the said *Robert* prays judgment of that writ, and that the said *Jane* may be precluded from having her execution for the damages aforesaid against him the said *Robert*, &c.

Demurrer to the scire facias.

Joinder.

And the said *Jane* says, that she by any thing before alledged ought not to be precluded from having her execution for the damages aforesaid against him the said *R.* because she says, that the writ of *scire facias* aforesaid, and the matter in the same contained, is good and sufficient in law to maintain her the said *J.* to have her execution aforesaid against the said *R.* for the damages aforesaid; which said writ of *scire facias*, and the matter in the same contained, the same *Jane* is ready to verify and prove, as the court, &c. And because the same *R.* to that writ doth not answer, nor the matter in the same contained in any wise deny, the same *Jane* prays judgment, and her execution against the same *R.* for the damages aforesaid, to be adjudged to her, &c. And because the court of the said Lord the King are not yet advised to give their judgment of and upon the premises, day therefore is given, &c.

Scire facias in debt for an executor.

THE Lord the King sent to the sheriffs of *London* his writ close in these words, to wit, *William*, &c. To the sheriffs of *London*, greeting: Whereas *W. W.* merchant, lately in our court before us and our most dear consort the Lady *Mary* late Queen of *England*, &c. at *Westminster*, by bill, without our writ, and of the said late Queen, and by the judgment of the same court, recovered against *M. N.* of the *Inner Temple*, *London*, Esq; 800 *l.* debt, and also 3 *l.* for his damages which he sustained as well by reason of the detention of that debt, as for his costs and charges by him about his suit in that behalf expended, whereof he is convicted, as it appears to us on record: And afterwards the said *W. W.* made his last will and testament in writing, and of the same will constituted and ordained *W. W.* his son executor, and afterwards died: And now on the behalf of the same *W.* the executor we have in our court before us understood, that although judgment thereof is given, execution nevertheless for the debt and damages aforesaid yet remains to be made; wherefore the same *W.* the executor hath besought us to grant him a proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by good and lawful men of your bailiwick you give notice to the said *M. N.* that he be before us at *Westminster* on _____ day next after _____ to shew if he hath or can say any thing for himself why the said *W.* the executor ought not to have his execution against him for the debt and damages aforesaid, according to the force, form and effect of the recovery aforesaid, if he shall think fit, and farther to do, &c.

On which day before the Lord the King at *Westminster* comes the said *W.* the executor The return. in his proper person; and the sheriffs of *London*, to wit, *C. D. Knt.* and *G. T. Knt.* return, that the said *M.* hath nothing in their bailiwick where or by which they can give him notice, neither is he found in the same; and the said *M.* doth not come: Therefore as An alias. before the sheriffs are commanded, that by good, &c. they give notice to the said *M.* that he be before the Lord the King at *Westminster* on day next after to shew in form aforesaid, if, &c. The same day is given to the said *W.* the son there, &c. On which day before the Lord the King at *Westminster* comes the said *W.* the son in his proper person; and the said sheriffs of *London*, to wit, the said *C. D.* and *G. T.* return, that they Notice: by virtue of the writ aforesaid to them directed, by *S. T.* and *D. H.* good and lawful men of their bailiwick, had given notice to the said *M.* that he should be before the said Lord the King at *Westminster* on the day and place in the said writ contained, to shew in form aforesaid, as they were by the said writ commanded: And upon this the said *W.* the son The will produces here in court the said letters testamentary of the said *W. W.* the father; whereby it sufficiently appears to the court of the said Lord the now King, that he the said *W. W.* the son is executor of the will aforesaid, and thereof hath the administration, &c. And he prays execution against the said *M.* for the debt and damages aforesaid, by virtue of the recovery aforesaid, to be adjudged to him, &c. And the said *M.* according to the notice to him in this behalf given, on the same day being solemnly called by *J. L.* his attorney likewise comes, and prays judgment of the writ of *scire facias* aforesaid, because he says, Plea, that that *W. W.* merchant, the testator, by his last will in writing, at *London* aforesaid in the *J. M.* and parish and ward aforesaid, constituted *J. M.* merchant, and *J. S.* merchant, executors of his will aforesaid, together with the said *W. W.* the plaintiff; which said *J. M.* and *J. S.* are *J. S.* are executors with the plaintiff, yet surviving and in full life, to wit, at *London* aforesaid in the parish and ward aforesaid: and not named And this the same *M.* is ready to verify: Wherefore for that the same *J. M.* and *J. S.* are in the writ. not named in the writ of *scire facias* aforesaid, the same *M.* prays judgment of the writ of *scire facias* aforesaid, and that that writ may be quashed.

And the said *W. W.* the executor says, that by any thing before alledged his writ aforesaid ought not to be quashed, because he says, that the said *W. W.* merchant, did not constitute the said *J. M.* and *J. S.* executors of his will aforesaid, as the said *M.* hath above in pleading alledged: And this he prays may be inquired of by the country: And the said *M.* likewise, &c. Therefore let a jury thereon come before the Lord the King at *Westminster* on Monday next after the morrow of the Ascension of the Lord; and who neither, &c. to recognize, &c. because as well, &c. The same day is given to the parties aforesaid there, &c.

Upon the trial the defendant had a verdict.

AND the said *Thomas* on the same day being solemnly called by *J. O.* his attorney comes Plea to a *scire* and says, that the said *John* ought not to have his execution against him for the debt and damages aforesaid, because he says, that the said *John* after the rendition of the judgment aforesaid, to wit, in *Trinity* term in the 11th year of the reign of the Lord the now King, obtained and prosecuted out of the said court of the said Lord the King before the King himself, then being at *Westminster* aforesaid, of and upon the judgment aforesaid, a certain writ of the said Lord the King of *capias ad satisfaciendum* against the said *Thomas* to the then sheriff of *Cornwall* directed; by which said writ the said Lord the King commanded the then sheriff of *Cornwall*, that he should take the said *Thomas*, if he should be found in his bailiwick, and safely keep him, so that he might have his body before the said Lord the King at *Westminster* on Wednesday next after three weeks of the Holy Trinity, to satisfy to the same *John* the debt and damages aforesaid, whereof he was convicted, and that he should have then here the writ aforesaid; which said writ of *capias ad satisfaciendum* the said *John* afterwards, to wit, on the 12th day of May in the 11th year above said, at *B.* in the county aforesaid, delivered to *E. P. Esq.* being then sheriff of the county aforesaid, in form of law to be executed; by virtue of which said writ of *capias ad satisfaciendum* the said *E. P. Esq.* being then as aforesaid sheriff of the county of *Cornwall*, afterwards and before the return of that writ, to wit, on the 11th day of June in the 11th year above said, took and arrested the said *Thomas* at *B.* aforesaid in the county aforesaid, and him the said *Thomas* in his custody in execution for the debt and damages aforesaid then and there had and detained, until the said *Thomas* afterwards, to wit, on the 20th day of June in the 11th year above said, at *B.* aforesaid in the county aforesaid, paid and satisfied the said *John* the debt and damages aforesaid: And this he is ready to verify: Wherefore he prays judgment if the said *John* ought to have his execution against him for the debt and damages aforesaid, &c.

And

Repl', no ca. And the said *John* says, that he by any thing by the said *Thomas* above in pleaded alledged
 sa. sued out. ought not to be precluded from having his execution against him for the debt and damages
 aforesaid, because he says, that he the said *John* did not prosecute any writ of *capias* ad
satisfaciendum against the said *Thomas*, as the said *Thomas* hath above in pleading alledged:
 And this he prays may be inquired of by the country.

The tertenant
 pleads that he
 is not tenant
 of the pre-
 mises.

AND the said *J. C.* by *J. L.* his attorney comes and says, that the said *J. B.* and *Anne*
 his wife ought not to have their execution against him for the debt and damages afore-
 said on the messuage aforesaid in the parish of *St. Bennet Grace-church* in the *Bridge ward*,
London, in the possession of him the said *J. C.* in the return of the writ of *scire facias*
 aforesaid mentioned, because he says, that before the judgment aforesaid in the said writ
 mentioned was given, to wit, on the 15th day of *March* in the 21st year of the reign of
 the Lord *Charles* the Second, late King of *England*, &c. the said *James B.* in the judgment
 in the writ of *scire facias* aforesaid mentioned was seised in his demesne as of fee of and in
 one toft with the appurtenances in the parish and ward aforesaid (being the toft on which
 the messuage in the return of the writ of *scire facias* aforesaid mentioned to be in the pos-
 session of him the said *J. C.* was afterwards built); and the said *James* being so thereof seised,
 by a certain indenture made on the said 15th day of *March* in the 21st year of the late
 King *Charles* the Second aforesaid, between the said *James B.* by the name of *J. B.* of
London, Knt. and Bart. and *John B.* the son and heir apparent of the said *J. B.* by the
 name of *J. B.* of *O.* in the county of *Kent*, Esq; son and heir apparent of the said *J. B.* of
 the one part, and *Richard S. Gent.* by the name of *R. S.* of the *Middle Temple*, *London*,
 Gent. of the other part, one part of which said indenture sealed with the seals of them the
 said *James B.* and *John B.* the same *J. C.* here in court produces, for and in consideration
 of the sum of 700 *l.* of lawful money of *England*, by him the said *Richard S.* to them the
 said *James B.* and *John B.* in hand paid, did demise, grant, bargain and sell; and the said
John B. did confirm to the said *Richard S.* among other things, the toft aforesaid on which
 the messuage in the possession of him the said *J. C.* in the return of the writ of *scire facias*
 aforesaid mentioned, was afterwards built, by the name of all that toft or void piece of
 land very lately a messuage or tenement with the appurtenances thereto belonging, (de-
 stroyed by the then late dreadful fire in *London*) and then lately called or known by the
 name or sign of the *Red Lyon* in *Grace-church-street*; To have and to hold the toft aforesaid
 with the appurtenances (among other things) to the said *Richard S.* his executors, admini-
 strators and assigns, from and immediately after the day of the date of the indenture afore-
 said, for and during and unto the full end and term of 500 years from thence next ensuing;
 Yielding and paying yearly and every year, during the term aforesaid, to the said *James B.*
 and his heirs on the Birth of our Lord Christ a pepper corn, if it should be lawfully de-
 manded, as by the indenture aforesaid more fully appears: By virtue of which said demise
 the same *Richard S.* afterwards, to wit, on the first day of *May* in the 21st year of the
 reign of the Lord *Charles* the Second, late King of *England*, &c. aforesaid, into the toft
 aforesaid with the appurtenances entred, and was thereof possessed; and being so thereof
 possessed afterwards, to wit, on the first day of *May* in the 25th year of the reign of the
 late Lord King *Charles* the Second, on the toft aforesaid did build the messuage aforesaid in
 the return of the writ of *scire facias* aforesaid mentioned to be in the possession of the said
J. C. And the same *J. C.* farther says, that the said *Richard* being so as aforesaid possessed
 of the messuage aforesaid with the appurtenances, afterwards, to wit, on the first day of
May in the year of the Lord 1684, demised the messuage aforesaid with the appurtenances
 to the said *J. C.* To have and to hold to the said *J. C.* from the feast of *St. John* the
 Baptist then next ensuing for one whole year, and so from year to year as long as both par-
 ties should please; Yielding and paying therefore to the same *Richard* the yearly rent of
 60 *l.* By virtue of which said demise the same *J. C.* into the messuage aforesaid with the
 appurtenances entred, and was and yet is thereof possessed; without that, that the said
J. C. on the day of the issuing of the said writ of *scire facias*, or ever after, was tenant as
 of freehold of the messuage aforesaid with the appurtenances, as by the return of the said
 writ of *scire facias* is supposed: And this he is ready to verify: Wherefore he prays
 judgment if the said *John B.* and *Anne* ought to have execution against him for the debt
 and damages aforesaid on the messuage aforesaid with the appurtenances, &c.

GEORGE,

GEORGE, *Esq.* To the sheriff of *Middlesex* greeting: Whereas *William F.* of, *Esq.* A *scire facias* before *Robert T. Esq.* one of our justices of the Bench, at his chambers situate in *Serjeants-Inn* in *Fleet-street*, *London*, and did acknowledge, and each of them separately by himself did acknowledge he owed to *John F.* the sum of 100*l.* to be levied on their and each of their lands and chattels, which said recognisance in form aforesaid taken, the same justice afterwards, to wit, on the fourth day of *May* in *Easter* term in the first year of our reign above said into our said court of the Bench aforesaid, to wit, at *Westminster* in the county aforesaid, by his own proper hands delivered in the same court on record to be inrolled; and there in the same *Easter* term before *Peter K. Knt.* and his companions our justices of the Bench aforesaid it is inrolled, which said 100*l.* the said *William* and *John* to the same *John F.* have not yet paid, nor hath either of them paid; whereon in our same court it is considered, that the said *John F.* may have thereof his execution against the said *William* and *John* for the debt aforesaid, according to the form of the recognisance aforesaid, as by the record and proceedings aforesaid, which we lately caused to be brought into our court before us for certain causes of error, appears to us on record: And now on the behalf of the said *John F.* we have in our court before us understood, that altho' judgment thereon is given, execution nevertheless of that judgment yet remains to be made: Wherefore the same *John* hath besought us to grant him his proper remedy in this behalf: We therefore being willing that what is just in this behalf should be done, command you, that by good and lawful men of your bailiwick you give notice to the said *William* and *John* that they be before us on the morrow of the Holy *Trinity*, wheresoever we shall then be in *England*, to shew if they have or can say any thing for themselves why the said *John F.* ought not to have his execution against them for the debt aforesaid, according to the force, form and effect of the recovery aforesaid, if they shall think fit, and further to do and receive what our same court before us shall then and there consider concerning them in this behalf; And have there the names of those by whom you shall give them notice, and this writ. *Witness, &c.*

GEORGE, *Esq.* To the sheriff of *Middlesex*, greeting: Whereas *James A. Gent.* A *scire facias* lately in our court before us at *Westminster*, by bill, without our writ, and by the judgment of the same court recovered against *John C. Esq.* otherwise called, *Esq.* and *Thomas H. Esq.* otherwise called, *Esq.* 800*l.* debt, and also 53*s.* for his damages which he sustained, as well by reason of the detention of that debt, as for his costs and charges by him about his suit in that behalf expended, whereof the same *John* and *Thomas* are convicted, as it appears to us on record: And although judgment thereof is given, execution nevertheless for the debt and damages aforesaid yet remains to be made: And whereas *George W.* of the *Poultry*, *London*, *Gent.* otherwise, to wit, in *Michaelmas* term in the third year of our reign before us at *Westminster* personally came and became pledge and bail for the said *John*, that if it should happen that the said *John* should be convicted at the suit of the said *James* in the plea aforesaid, then the same bail granted that as well the debt aforesaid, as all such damages, costs and charges as should be adjudged to the said *James* in that behalf should be made of his lands and chattels, and levied to the use of him the said *James*, if it should happen that the said *John* should not pay the debt and those damages, costs and charges to the said *James*, or should not surrender himself to our prison to the marshal of the *Marshalsey* before us on that account, which said debt, and the damages, costs and charges, are not paid to the said *James*, nor hath the said *John* surrendered himself to our prison to the marshal of the *Marshalsey* aforesaid before us, as by the suggestion of the said *James* we have in our court before us understood: Wherefore the said *James* hath besought us to grant him his proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by good and lawful men of your bailiwick you give notice to the said *George* that he be before us at *Westminster* on *Wednesday* next after three weeks of *St. Michael*, to shew if he hath or can say any thing for himself why the said *James* ought not to have his execution against him for the debt and the damages, costs and charges aforesaid, according to the force, form and effect of the recognisance aforesaid, if he shall think fit; and further to do and receive, *Esq.*

*A scire facias
quare execu-
tionem non
for damages
on a judgment
in formidum
removed by
writ of error
out of C. B.
into K. B.*

GEORGE, &c. To the sheriff of *Lincoln*, greeting: Whereas *Rebecca H. Robert* and *Sarah* his wife, and *Elizabeth H.* lately in the court of the Lady *Anne* late Queen of *Great Britain*, &c. before *Thomas Trevor* baron of *Bromham*, and his companions, justices of the same late Lady the Queen of the Bench at *Westminster*, by the judgment of the same court recovered against *Edmund H. Bart.* 122 l. to the same *Rebecca, Robert* and *Sarah* his wife, and *Elizabeth*, according to the form of the statute in such case thereof lately made and provided, adjudged for their costs and charges by them about their defence in a certain plea on a certain writ of the said late Lady the Queen, of *formidum* in remainder of the manor of *H.* with the appurtenances, and the rectory of *H.* with the appurtenances in your county sustained, whereof the said *Edmund H. Bart.* is convicted, as by the inspection of the record and proceedings thereof, which we lately caused to be brought into our court before us for certain causes of error, appears to us on record: And now on the behalf of the said *Rebecca, Robert* and *Sarah* his wife, and *Elizabeth* in our court before us, we have understood, that although judgment aforesaid in form aforesaid is given, execution nevertheless of that judgment yet remains to be made for them; wherefore the same *Rebecca, Robert* and *Sarah* his wife, and *Elizabeth*, have besought us to grant them a proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by good and lawful men of your bailiwick you give notice to the said *Edmund H. Bart.* that he be before us from the day of *Easter* in 15 days, to shew if he hath or can say any thing for himself why the said *Rebecca, Robert* and *Sarah* his wife, and *Elizabeth*, ought not to have their execution for their costs and charges aforesaid against the same *Edmund H. Bart.* according to the force, form and effect of the recovery aforesaid, if he shall think fit, and further, &c.

*A scire facias
for an execu-
tor for costs,
on quashing a
writ of error
on a judgment
obtained by
the testator.*

ANNE, &c. To the sheriff of *Middlesex*, greeting: Whereas *Ambrose C. Knt.* lately in our court before us at *Westminster*, by the consideration of the same court, recovered against *Joseph P.* late of, &c. and *R. S.* late of, &c. 10 l. which to the same *Ambrose* in our court before us at *Westminster*, according to the form of the statute in such case lately made and provided were adjudged for his damages, costs and charges which he sustained by reason of the delay of execution of a certain judgment on a certain recognisance in our court before our justices of the Bench at *Westminster* against them recovered, on pretence of the prosecution of a certain vitious and defective writ of error which we lately caused to be brought before us at *Westminster*, for that reason there quashed now remaining, as it appears to us on record: And now in our court before us we have understood that the said *Ambrose C. Knt.* made his last will and testament, and by the same constituted and ordained *John C. Esq;* his son, executor of his will aforesaid, and afterwards died; and although judgment thereof is given, execution nevertheless for the damages and costs aforesaid yet remains to be made: Wherefore the same *John C.* hath besought us to grant him his proper remedy in this behalf: And we in this behalf being willing that what is just should be done, command you, that by good and lawful men of your bailiwick you give notice to the said *J.* and *R.* that they be before us on wheresoever we shall then be in *England*, to shew if they have or can say any thing for themselves why the said *John C.* ought not to have execution against them for the damages, costs and charges aforesaid, according to the force, form and effect of the recovery aforesaid, if they shall think fit; and further, &c.

*A scire facias
for a surviving
plaintiff.*

ANNE, &c. To the sheriff of *Sussex*, greeting: Whereas *John A.* and *Arthur B.* lately in the court of the Lord *William* the Third, the late King, before the late King himself at *Westminster*, by bill, without the writ of the said late King, and by the judgment of the same court, recovered against *James B.* 10 l. debt, and 70 s. for his damages which he sustained, as well by reason of the detention of that debt, as for his costs and charges by him about his suit in that behalf expended, whereof the same *James* is convicted, as it appears to us on record: And whereas the said *J. A.* afterwards died, and the said *Arthur* survived him: And now on the behalf of the said *Arthur* in our court before us we have understood, that although judgment thereof is given, execution nevertheless for the debt and damages aforesaid yet remains to be made: Wherefore the same *Arthur* hath besought us to grant him his proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command

command you, that by good and lawful men of your bailiwick you give notice to the said *James* that he be before us at *Westminster* on *Thursday* next after the morrow of *All Souls*, to shew if he hath or can say any thing for himself why the said *Arthur* ought not to have execution against him for the debt and damages aforesaid, according to the force, form and effect of the recovery aforesaid, if he shall think fit, and farther, &c.

William, &c. To the sheriff of *Sussex*, greeting: Whereas *Stephen W.* lately in our court before us at *Westminster*, by bill, without our writ, and by the judgment of the same court, recovered against *James G. Gent.* 100 *l.* debt, and also 63 *s.* for his damages which he sustained as well by reason of the detention of that debt, as for his costs and charges by him about his suit in that behalf expended, whereof the said *James* was convicted, as it appears to us on record: And afterwards the said *James* at *Lewes* aforesaid in the county aforesaid made his last will and testament in writing, and by the same constituted *N. T. Gent. C. F. Gent. and J. W. Gent.* executors thereof, and afterwards there died, the said *Stephen* being not paid the debt and damages aforesaid: And now on the behalf of the said *Stephen* in our court before us we have understood, that altho' the judgment aforesaid is given, execution nevertheless of that judgment yet remains to be made for him: Wherefore the same *Stephen* hath besought us to grant him his proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by good and lawful men of your bailiwick you give notice to the said *N. C. and J.* that they be before us at *Westminster* on day next after to shew if they have or can say any thing for themselves why the said *Stephen* ought not to have his execution against them for the debt and damages aforesaid of the goods and chattels which belonged to the said *James* at the time of his death in their hands to be administered, according to the force, form and effect of the recovery aforesaid, if they shall think fit, and farther, &c.

A scire facias
against execu-
tors where the
defendant died
after judgment
recovered.

ANNE, &c. To the sheriffs of *London*, greeting: Whereas *Charles P. Gent.* lately in the court of the Lord *William the Third*, late King of *England*, before the late King himself at *Westminster*, by bill, without the writ of the said late King, and by the judgment of the same court, recovered against *Jeffery B. of Grays-Inn* in the county of *Middlesex*, otherwise called, &c. 400 *l.* debt, and also 4 *l.* for his damages which he sustained as well by reason of the detention of that debt, as for his costs and charges by him about his suit in that behalf expended, whereof the same *Jeffery* is convicted, as it appears to us on record: And the said *Jeffery* after the judgment aforesaid in form aforesaid given is dead, and died seised in his demesne as of fee of sundry lands and tenements in your bailiwick, as by the suggestion of the said *Charles* in our court before us we have understood: And altho' the judgment aforesaid is given, execution nevertheless of that judgment yet remains to be made, as by the suggestion of the said *Charles* in our said court before us we have likewise understood: Wherefore the same *Charles* hath besought us to grant him his proper remedy in this behalf: And we being willing that what is just should be done in this behalf, command you, that by good and lawful men of your bailiwick you give notice to the tenants of all the lands and tenements in your bailiwick, whereof the said *Jeffery*, or any other person or persons, was or were seised to the use of the said *Jeffery*, on *Monday* next after the Octave of *St. Hillary* in the 10th year of the reign of the said Lord *William the Third*, late King of *England*, &c. on which day the judgment aforesaid was given, or ever after, that they be before us at *Westminster* on day next after to shew if they have or can say any thing for themselves why the said *Charles* ought not to have his execution against them for the debt and damages aforesaid, to be levied on those lands and tenements, according to the force, form and effect of the recovery aforesaid, if they shall think fit; and further, &c.

A scire facias
against the
tenants af-
ter judgment
recovered in
the time of the
late King.

William, &c. To the sheriff of *Norfolk*, greeting: Whereas *Richard J.* lately in our court before us at *Westminster*, by bill, without our writ, impleaded *John C. Esq.* in a plea of trespass and ejectment for the recovery of the possession of several messuages, lands and tenements with the appurtenances in *W. and W.* in your county, in which said suit

A scire facias
after a year
and a day on
a judgment
for the defen-
dant in eject-
ment.

it was considered, that the said *Richard* should take nothing by his bill aforesaid, but should be in mercy for his false claim: It was likewise considered, that the said *John C.* should recover against the said *Richard* 106 *l.* for his costs and charges by him sustained about his defence in that suit to him, according to the form of the statute in such case made and provided adjudged, whereof the same *Richard* is convicted, as it appears to us on record: And now on the behalf of the said *John C.* in our court before us we have understood, that altho' judgment thereof is given, execution nevertheless for the said 106 *l.* for the costs and charges aforesaid yet remains to be made for him: Wherefore the same *J.* hath besought us to grant him his proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by good and lawful men of your bailiwick you give notice to the said *R. J.* that he be before us at *Westminster* on day next after to shew if he hath or can say any thing for himself why the said *J.* ought not to have execution against him for the said 106 *l.* according to the force, form and effect of the recovery aforesaid, if he shall think fit, and farther, &c.

A scire facias
to hear errors
on a judgment
on a *scire fa-*
cias out of the
court of the
town of *M.*

A *NNE, &c.* To the sheriff of *Kent*, greeting: Whereas in the record and proceedings, and also in the adjudication of execution on a precept of *scire facias* issuing out of the court of the Lord *William* the Third, late King of *England*, of the town and parish of *M.* against *James B.* the bail of *James D.* in a plaint of debt of 120 *l.* against the said *James D.* and *John A.* in the court of the said late King and the Lady *Mary* late Queen of *England*, of the town and parish of *M.* aforesaid, before the then mayor of the town and parish of *M.* aforesaid levied, on which said plaint judgment in the said court of the said late King and of the said late Queen of the town and parish of *M.* aforesaid is given against the said *James D.* for the said 120 *l.* debt, and also 58 *s.* 2 *d.* for damages by reason of the detention of that debt, as it is said, a manifest error hath happened, to the great damage of him the said *James B.* as by his complaint we have understood, the record and proceedings of which said judgment we have lately caused to be brought before us for certain causes of error, appears to us on record: And the said *James B.* hath thereon duly assigned his errors on record, as by the inspection of the record thereof doth likewise appear to us on record: Therefore we command you, that by good and lawful men of your bailiwick you give notice to the said *John A.* that he be before us wheresoever we shall then be in *England*, to hear the record and proceedings aforesaid, if he shall think fit, and farther, &c.

A scire facias
on a judgment
in the court of
the *Tolfel* of
the city of
Bristol re-
moved by er-
ror into *K. B.*

W *Illiam and Mary, &c.* To the sheriffs of the city of *Bristol*, greeting: Whereas *Marmaduke B.* lately in our court of the *Tolfel* of the city aforesaid, held in the antient market of the same city, according to the law of merchants, and according to the use and custom of the city aforesaid, for time immemorial used and approved in the same, and according to the liberties and privileges of the mayor and commonalty of the same city, by divers charters of our progenitors to the mayor and commonalty of the said city granted, and by us lately confirmed before *J. B.* and *W. O.* Esq; as well sheriffs of the city aforesaid, as the bailiff, mayor and commonalty of the same city, without our writ, and by the judgment of the same court, recovered against *William C.* 29 *l.* 19 *s.* 6 *d.* for his damages which he sustained as well by reason of certain trespasses on the case to the same *Marmaduke* by the said *William* done, as for his costs and charges by him about his suit in that behalf expended, whereof the said *William* is convicted, as by the inspection of the record and proceedings thereof, which we lately caused to be brought into our court before us for certain causes of error, appears to us on record: And now on the behalf of the said *Marmaduke* in our court before us we have understood, that altho' judgment aforesaid in form aforesaid is given, execution nevertheless for the damages aforesaid yet remains to be made for him: Wherefore, &c.

ANNE,

A NNE, &c. To the sheriffs of *London*, greeting: Because in the record and proceedings, and also in the rendition of the judgment of a plea which was in our court before us by bill, between *John S. Gent.* administrator of the goods and chattels which belonged to *John G.* with the will of the said *John G.* thereto annexed, unadministred by one *Thomas S.* now deceased, late administrator of the goods and chattels of the said *J. G.* with the will annexed, and *Isaac D.* merchant, otherwise called, &c. for this, that the same *Isaac* should render to the said administrator 307 *l.* as it is said, a manifest error hath happened, to the great damage of the said administrator, as by his complaint we have understood, the record and proceedings of which said judgment we have caused to be brought into our Exchequer chamber before our justices of the common Bench and the barons of our Exchequer, who are of the degree of the coif, to correct the errors in the same, according to the form of the statute of the 27th year of the Lady *Elizabeth* the late Queen thereof provided: And because the same *John S.* hath duly assigned errors on record upon the judgment aforesaid, therefore we command you, that by good and lawful men of your bailiwick you give notice to the said *Isaac D.* that he be before our justices of the common Bench and the barons of our Exchequer aforesaid, in our Exchequer chamber aforesaid, on *Saturday* the 28th day of *October* next ensuing, to hear the record and proceedings aforesaid, if he shall think fit; and further to do and receive what the same justices and barons shall consider in this behalf; And have there the names of those by whom you shall give him notice, and this writ. Witness *Thomas Trevor*, Knt. at *Westminster* the fourth day of *July* in the third year of our reign.

A *scire facias* to hear errors in the Exchequer chamber.

A NNE, &c. To the sheriff of *Northton*, greeting: Whereas *Samuel C.* lately in our court before *Thomas T.* Knt. and his companions our justices of the bench at *Westminster*, by our writ, and by the judgment of the same court, hath recovered against *John B.* 16 *l.* 17 *s.* 6 *d.* for his damages which he sustained, as well by reason of the taking and unjust detention of the mare of him the said *Samuel*, as for his costs and charges by him about his suit, in that behalf expended, whereof the same *John* is convicted, as by the inspection of the record and proceedings thereof which we lately caused to be brought into our court before us for certain causes of error appears to us on record: And now on the behalf of the said *Samuel* in our court before us we have understood, that altho' judgment aforesaid in form aforesaid is given, execution nevertheless of that judgment yet remains to be made for him: Wherefore the same *Samuel* hath besought us to grant him his proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by good and lawful men of your bailiwick you give notice to the said *John* that he be before us on _____ wheresoever we shall then be in *England*, to shew if he hath or can say any thing for himself why the said *Samuel* ought not to have his execution for the damages aforesaid against the said *John*, according to the force, form and effect of the recovery aforesaid, if he shall think fit; and further, &c.

A *scire facias* quart executionem non in replevin.

W illiam, &c. To the sheriff of *York*, greeting: Whereas *George T.* lately in our court before *E. N.* Knt. and *J. B.* Knt. our justices of the Bench at *Westminster*, by our writ, and by the judgment of the same court, hath recovered against *James R.* late of *Brusbes* in your county, yeoman, his term yet to come of and in one messuage, 15 acres of land, 10 acres of meadow, and 10 acres of pasture, with the appurtenances in the parish of *E.* in your county, which *William M.* on the 20th day of *October* in the 12th year of our reign, demised to the same *George*, to have and to hold to the same *George* and his assigns, from the 19th day of the same month of *October* then last past, unto the full end and term of five years from thence next ensuing and fully to be compleat and ended, by virtue of which said demise the same *George* into the tenements aforesaid with the appurtenances enter'd, and was thereof possessed, until the said *James* afterwards, to wit, on the same 20th day of *October* in the 12th year above said, with force and arms, &c. into the tenements aforesaid with the appurtenances, which the said *William M.* to the same *George* in form aforesaid demised for the term aforesaid, which is not yet ended, entred, and him the said *George* from his farm aforesaid ejected, and also 11 *l.* 6 *s.* 6 *d.* for his damages which he sustained, as well by reason of the trespass and ejectment aforesaid, as for his costs and charges by him about his suit in that behalf expended, whereof the said *James* is convicted, as by the record and proceedings thereof, which we lately caused to be brought into our court before us for certain causes of error, appears to us on record: And now on the part of the said *George*, we have in our court before us understood, that altho' the judgment aforesaid in form aforesaid is given, execution nevertheless of that judgment yet

A *scire facias* quare possessionem non, on a judgment in ejectment removed out of C.B. by error.

yet remains to be made for him; wherefore the same *George* hath besought us to grant him his proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by good and lawful men of your bailiwick you give notice to the said *James*, that he be before us on _____ wheresoever, &c. to shew if he hath or can say any thing for himself why the said *George* ought not to have his possession of his term aforesaid yet to come of and in the tenements aforesaid with the appurtenances, and also execution for the damages, costs and charges aforesaid, according to the force, form and effect of the recovery aforesaid, if he shall think fit, and farther to do and receive what our same court before us shall then and there consider concerning him in this behalf; And have there the names of those by whom you shall give him notice, and this writ. *Witness, &c.*

*A testatum
scire facias a-
gainst terte-
nants brought
by an execu-
tor.*

William, &c. To the sheriff of *Suffex*, greeting: Whereas *T. W.* Esq; lately in the court of the Lord *Charles* the Second, late King of *England*, before the late King himself at *Westminster*, by bill, without the writ of the said late King, and by the judgment of the same court, recovered against *N. P.* otherwise called, &c. 300*l.* debt, and also 21*s.* for his damages which he sustained as well by reason of the detention of that debt, as for his costs and charges by him about his suit in that behalf expended, whereof the same *N.* is convicted, as it appears to us on record; and as well the said *N.* as the said *T.* after the judgment aforesaid in form aforesaid recovered are dead, as by the suggestion of *A. W.* Esq; the executor of the last will and testament of the said *T. W.* we have in our court before us understood; wherefore the same *A.* hath besought us to grant him his proper remedy in this behalf: And because we are willing that those things which are lawfully transacted in our said court should be carried into due execution, we lately commanded our sheriffs of *London*, that by good and lawful men of their bailiwick they should give notice to the heirs and tenants of all the lands and tenements in their bailiwick, whereof the said *N.* or any person or persons to the use of the said *N.* was or were seised on *Friday* next after the morrow of the Holy *Trinity* in the 17th year of the reign of the late Lord King *Charles* the Second, on which day the judgment aforesaid was given, or ever after was seised, that they should be before us at *Westminster* on *Tuesday* next after 15 days of *St. Martin*, to shew if they had or could say any thing for themselves why the debt and damages aforesaid ought not to be levied on those lands and tenements, and paid to the said *A.* according to the force, form and effect of the recovery aforesaid, if they should think fit, and farther to do and receive what our court before us should then and there consider concerning them in this behalf; And that they should have there then the names of those by whom they should give them notice, and that writ. And our said sheriffs of *London* on that day returned to us, that there are no heirs nor tenants, neither is there any heir or tenant of any lands or tenements whereof the said *N.* was seised in his bailiwick the day on which the judgment aforesaid was given, or ever after, to whom they could give notice: And now on the behalf of the said *N.* in our court before us it is sufficiently testified, that there are several tenants of sundry lands and tenements which were the said *N.*'s at the time of the judgment aforesaid given, and afterwards in your county, to whom you may give notice: We therefore command you, that by good and lawful men of your bailiwick you give notice to the tenants of the lands and tenements which were the said *N.*'s in your bailiwick of which the said *N.* or any person or persons to the use of the said *N.* was or were seised on the said *Friday* next after the morrow of the Holy *Trinity* in *Trinity* term in the 17th year of the reign of the said late Lord King *Charles* the Second, on which day the judgment aforesaid was given, or ever after, that they be before us at *Westminster* on *Tuesday* next after the Octave of *St. Hillary*, to shew if they have or can say any thing for themselves why the debt and damages aforesaid ought not to be levied on those lands and tenements, and paid to the said *A.* according to the force, form and effect of the recovery aforesaid, if they shall think fit, and farther to do and receive, &c.

*A scire facias
in case quare
executionem
non directed
to the cham-
berlain of the
county pala-
tine.*

William, &c. To our chamberlain of our county palatine of *Chester*, or to his deputy there in this behalf, greeting: Whereas *R. S.* lately in our court before us at *Westminster*, by bill, without our writ, and by the judgment of the same court, hath recovered against *W. E.* 39*l.* 6*s.* for his damages which he sustained as well by reason of the non-performance of certain promises and assumptions to the same *R.* by the said *W.* lately made, as for his costs and charges by him about his suit in that behalf expended, whereof the same *W.* is convicted, as it appears to us on record: And now on the behalf of the said *R.* in our court before us we have understood, that although judgment thereof is given, execution nevertheless for the damages aforesaid yet remains to be made; wherefore the same *R.* hath besought us to grant him his proper remedy in this behalf: And we being willing that what is just in this respect should be done, command you, that by our writ under the seal of our county palatine aforesaid duly to be made, and to the sheriff of

of the same county to be directed, you cause the same sheriff to be commanded, that by good and lawful men of his bailiwick he give notice to the said *William* that he be before us at *Westminster* on _____ day next after _____ to shew if he hath or can say any thing for himself why the said *Robert* ought not to have his execution against him for the damages, costs and charges aforesaid, according to the force, form and effect of the recovery aforesaid, if he shall think fit, and farther to do and receive what our court before us shall then and there consider concerning him in this behalf; And have there then the names of those by whom he shall give him notice, and this writ. Witness, &c.

A *NNE*, &c. To the sheriff of *Hereford*, greeting: Because in the record and proceed- A *scire facias* to hear errors on a judgment in the C. B. for words. ings, and also in the rendition of the judgment of a plea which was in our court before *Thomas T. Knt.* and his companions, our justices of the Bench, by our writ, between *Joyce L.* widow, plaintiff, and *Roger L.* otherwise *L.* late of *Brinsop* in the county aforesaid, yeoman, and *Mary* his wife, defendants, of a certain trespass on the case to her the said *Joyce* by them the said *Roger* and *Mary* done, whereof the same *Roger* and *Mary* are convicted, as it is said, a manifest error hath happened, to the great damage of them the said *Roger* and *Mary*, as we have by their complaint understood, the record and proceedings of which said judgment we have lately caused to be brought before us for certain causes of error: And because the said *Roger* and *Mary* have duly assigned errors on record upon the judgment aforesaid, and we being willing that the error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid, as is reasonable, command you, that by good and lawful men of your bailiwick you give notice to the said *Joyce*, that she be before us on the Octave of *St. Hillary*, wheresoever we shall then be in *Great Britain*, to hear the record and proceedings aforesaid, if she shall think fit, and farther to do and receive what our court before us shall then and there consider concerning her in this behalf; And have there then the names of those by whom you shall give her notice, and this writ. Witness, &c.

Sci'

Sci' Fier' Inquir'.

A *feri facias*
against an ad-
ministratoe in
debt after
judgment af-
firmed in er-
ror, in order
to sue out a
sci' fier' in-
quir'.

GEORGE, &c. To the sheriff of *Middlesex*, greeting: We command you, that of the goods and chattels which belonged to *Gilbert N. Esq;* who died intestate, as it is said, lately called *Gilbert N. of Hopton* in the parish of *Avenbury* in the county of *Worcester*, *Esq;* at the time of his death in the hands and custody of *George B. D.* late of *Westminster*, *Esq;* administrator of the goods and chattels which belonged to the said *Gilbert* at the time of his death, to be administered in your bailiwick you cause to be made 1200 l. debt which *Grimbald P. Esq;* lately in the court of the Lady *Anne* late Queen of *Great Britain*, &c. before the justices of the same late Queen of the Bench at *Westminster*, recovered against him the said *George B. D.* and also 50 s. which to the same *Grimbald* in the same court of the said late Queen were adjudged for his damages which he sustained by reason of the detention of that debt, if he hath so much thereof in his hands; and if he hath not so much thereof in his hands, then the damages aforesaid of the proper goods and chattels of him the said *George B. D.* whereof the said *George B. D.* is convicted, as by the inspection of the record and proceedings thereof, which we lately caused to be brought into our court before us, by virtue of our certain writ of error by the said *George B. D.* of and upon the premises prosecuted, and which in our same court before us in all things affirmed now remain, appears to us on record; and have that money before us from the day of *Easter* in five weeks, wheresoever we shall then be in *England*, to be paid to the said *Grimbald* for the debt and damages aforesaid; And have there then this writ. Witness, &c.

The *sci' fier'*
inquir'

GEORGE, &c. To the sheriff of *Middlesex*, greeting: Whereas we lately commanded you by our writ, that of the goods and chattels which belonged to *Gilbert N. Esq;* who died intestate, as it is said, lately called *Gilbert N. of Hopton* in the parish of *Avenbury* in the county of *Worcester*, *Esq;* at the time of his death in the hands and custody of *George B. D.* late of *Westminster*, *Esq;* administrator of the goods and chattels which belonged to the said *Gilbert* at the time of his death to be administered, you should cause to be made, 1200 l. debt, which *Grimbald P. Esq;* lately in the court of the Lady *Anne* late Queen of *Great Britain*, &c. before the justices of the said late Queen of the Bench at *Westminster*, had recovered against him the said *George B. D.* and also 50 s. which to the same *Grimbald* in the same court of the said late Queen had been adjudged for his damages which he had sustained by reason of the detention of that debt, if he had so much thereof in his hands; and if he had not so much in his hands, then the damages aforesaid of the proper goods and chattels of him the said *George B. D.* whereof the said *George B. D.* is convicted, as by the inspection of the record and proceedings thereof which we lately caused to be brought into our court before us, by virtue of our certain writ of error by the said *George B. D.* of and upon the premises prosecuted, and which in our same court before us in all things affirmed now remain, appears to us on record; and that you should have that money before us from the day of *Easter* in five weeks, wheresoever we should then be in *England*,

England, to be paid to the said *Grimbald* for the debt and damages aforesaid; and you on that day returned to us, that *George B. D.* hath no goods or chattels which belonged to the said *Gilbert N.* at the time of his death in his hands to be administred, whereof you can cause to be made the debt and damages aforesaid, or any part thereof, nor any goods or chattels of his own whereof you can cause to be made the damages aforesaid, or any part thereof: And because the return aforesaid is thought to be in delay of the execution of the debt and damages aforesaid, and also because in our same court before us on the behalf of the said *Grimbald* it is sufficiently testified, that several goods and chattels which belonged to the said *Gilbert* at the time of his death came to the hands and possession of the said *George B. D.* after the death of him the said *Gilbert* to be administred, and that he the same *George B. D.* hath sold and wasted those goods and chattels, and the money thereby received to his own proper use hath converted and disposed, and the residue of the goods and chattels which belonged to the said *Gilbert* at the time of his death have been by the said *George B. D.* eloined, to the intent that the execution aforesaid should not be executed: And we being unwilling that those things which are lawfully transacted or adjudged in our same court should be render'd ineffectual by fraud or subtilty, command you, that of the goods and chattels which belonged to the said *Gilbert* at the time of his death in the hands of the said *George B. D.* to be administred in your bailiwick, you cause to be made the debt and damages aforesaid, if they can be levied thereon; and the money thereon levied have before us on the morrow of the Holy Trinity, wheresoever we shall then be in *England*, to be paid to the said *Grimbald* for the debt and damages aforesaid; and if they cannot be levied thereon, then if it shall appear to you by the inquisition of good and lawful men of your bailiwick in this behalf to be taken, or in any other manner by which you may be better certified therein, that the said *George B. D.* hath sold, eloined, wasted, or to his own proper use converted or disposed the goods and chattels which belonged to the said *Gilbert* at the time of his death in the hands of the said *George B. D.* to be administred, to the value of the debt and damages aforesaid, or any part thereof, that then by good and lawful men of your bailiwick you give notice to the said *George B. D.* that he be before us on the morrow of the Holy Trinity aforesaid, to shew if he hath or can say any thing for himself why the said *Grimbald* ought not to have his execution against him for the debt and damages aforesaid of the proper goods and chattels of him the said *George B. D.* if he shall think fit; and farther to do and receive what our court before us shall then consider concerning him in this behalf; And have there then the names of those by whom you shall give him notice, and this writ. Witness *J. Pratt*, Knt. at *Westminster* 4th day of *May* in the 4th year of our reign.

GEORGE, &c. To the sheriff of *London*, greeting: Whereas *William F.* late of the parish of *St. Saviour Southwark* in the county of *Surry*, dyer, administrator of all and singular the goods and chattels, rights and credits, which belonged to *William N.* late of the parish of *St. Stephen Coleman-street*, *London*, packer, deceased, at the time of his death, who died intestate, lately in our court before *Peter K.* Knt. and his companions, our justices of the Bench at *Westminster*, recovered against *William W.* 16 l. 10 s. to the same *William F.* according to the form of the statute in such case made and provided, adjudged for his costs and charges by him in a certain plea of trespass on the case sustained, whereof the same *William W.* is convicted, as by the inspection of the record and proceedings thereof, which we lately caused to be brought into our court before us for certain causes of error, appears to us on record: And now on the behalf of the said *William F.* in our court before us we have understood, that altho' judgment thereof is given, execution nevertheless for the said 16 l. 10 s. for his costs and charges aforesaid yet remains to be made for him; wherefore the same *William F.* hath besought us to grant him his proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by good and lawful men of your bailiwick you give notice to the said *William W.* that he be before us from the day of *St. Michael* in three weeks, wheresoever we shall then be in *England*, to shew if he hath or can say any thing for himself why the said *William F.* ought not to have his execution against him the said *William W.* for the said 16 l. 10 s. according to the force, form and effect of the recovery aforesaid, if he shall think fit, and farther to do and receive what our court before us shall consider concerning him in this behalf; And have there the names of those by whom you shall give him notice, and this writ. Witness *J. Pratt*, Knt. at *Westminster*, &c.

A fir' fier' inquir'. England, to wit. **T**HE Lord the King sent to the sheriffs of *London* his writ close in these words, to wit, *William, &c.* To the sheriffs of *London*, greeting: Whereas we lately commanded you by our writ, that of the goods and chattels which belonged to *Edward B.* deceased, at the time of his death in the hands and custody of *John B.* administrator of all and singular the goods and chattels, rights and credits which belonged to the same *Edward* at the time of his death, who died intestate in your bailiwick, you should cause to be made 400 *l.* debt, which *E. C.* lately in our court before us at *Westminster* recovered against the same *E. B.* and also 51 *s.* which to the same *E. C.* in our same court before us were adjudged for his damages which he sustained as well by reason of the detention of that debt, as for his costs and charges by him about his suit in that behalf expended, whereof the same *E. B.* in his life-time was convicted, as it appears to us on record; and whereon in our same court before us it is lately considered, that the said *E. C.* may have his execution against the said *J.* for the debt and damages aforesaid, to be levied on the goods and chattels which belonged to the said *E. B.* at the time of his death, being in the hands of the said *J.* to be administered, as it likewise appears to us on record; and should have that money before us at *Westminster* on *Wednesday* next after 15 days of *Easter*, to be paid to the said *E. C.* for the debt and damages aforesaid: And whereas we likewise commanded you by our writ aforesaid, that of the goods and chattels which belonged to the said *J.* in your bailiwick you should cause to be made 7 *l.* 10 *s.* which to the same *E. C.* in our said court before us at *Westminster*, according to the form of the statute in such case lately made and provided, were adjudged for his costs and charges by him about his suit in the prosecution of our certain writ of *scire facias* of and upon the judgment aforesaid against the said *J.* in our court aforesaid lately prosecuted, whereon the same *J.* is convicted, as it appears to us on record, if he had so much thereof in his hands; and if he had not so much thereof in his hands, then the said 7 *l.* 10 *s.* to be levied on the proper goods and chattels of him the said *John*; and that you should have that money before us at *Westminster* on the said day to be paid to the said *E.* for those costs and charges, and that you should have there then that writ: And you on that day returned to us that the said *J.* had no goods or chattels which belonged to the said *E. B.* at the time of his death in his hands to be administered in your bailiwick, whereof you could cause to be made the debt and damages aforesaid, or any part thereof; and that the said *J.* had no goods or chattels of his own in your bailiwick, whereof you could cause to be made the said 7 *l.* 10 *s.* for the costs and charges aforesaid, or any part thereof: And whereas we have commanded you by our other writ that you take the said *J.* if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us at *Westminster* on day next after to satisfy the said *E. C.* the said 7 *l.* 10 *s.* And because the said return is thought to be in delay of the execution of the debt and damages aforesaid against the said *E. B.* in his life-time as aforesaid recovered; and also because in our same court before us on the behalf of the said *E. C.* it is sufficiently testified that several goods and chattels which belonged to the said *E. B.* at the time of his death came to the hands and possession of the said *J.* after the death of the same *E.* to be administered; and that the said *J.* hath sold and wasted those goods and chattels, and the money thence arising hath converted and disposed to his own proper use, and that the said *J.* the residue of the goods and chattels aforesaid which belonged to the same *E.* at the time of his death hath elained to places unknown to the said *E. C.* and to his own proper use converted, to the intent that the said execution thereon should not be made; and we being unwilling that those things which are lawfully transacted or adjudged in our said court before us should be by craft and subtilty rendered ineffectual, command you, that of the goods and chattels which belonged to the said *E. B.* at the time of his death being in the hands of the said *J.* to be administered in your bailiwick you cause to be made the debt and damages aforesaid, if you can cause them to be levied thereon, and the money thereon levied have before us on the said *Tuesday* next after five weeks of *Easter*, to be paid to the said *E. C.* for the said debt and damages; and if they cannot be levied thereon, then if it shall appear to you by inquisition, on the oath of good and lawful men of your bailiwick in this behalf to be taken, or by any other means whereby you may better know or be certified that the said *J.* hath sold, elained, wasted or to his own proper use converted or disposed the goods or chattels which belonged to the said *E. B.* at the time of his death, to the value of the debt and damages aforesaid, against the said *E.* in his life-time, so as aforesaid recovered, or any part thereof, then

Recital of the fi fa.

The judgment against the intestate.

Scire facias against the administrator.

The return of the *fi. fac.*

Ca. fa. sued.

Suggestion of a *devastavit*.

Fieri facias of the goods of the intestate; but if he hath wasted them, then to summon him, &c.

then by good and lawful men of your bailiwick give notice to the said *J.* that he be before us at *Westminster* on the said *Tuesday* next after five weeks of *Easter*, to shew if he hath or can say any thing for himself why the said *E. C.* ought not to have his execution against him for the debt and those damages, to be levied on the proper goods and chattels of him the said *J.* if he shall think fit, and farther to do and receive what our court before us shall then and there consider concerning him in this behalf; And have there then the names of those by whom you shall give him notice, and this writ. Witness *J. Holt*, Knt. &c.

On which day before the Lord the King at *Westminster* comes the said *E. C.* in his proper person; and the sheriffs, to wit, *C. D.* and *G. J.* Knt. return the writ aforesaid to them in form aforesaid directed in manner and form following, to wit, that the said *J. B.* is not found in their bailiwick, nor hath any goods or chattels which belonged to the said *E. B.* at the time of his death in his hands to be administred in their bailiwick, whereof they can cause to be made the debt and damages aforesaid against the said *E.* in his life-time recovered, or any part thereof; but that the said *J. B.* had several goods and chattels which belonged to the said *E. B.* at the time of his death in his hands to be administred, to the value of the debt and damages aforesaid, recovered by the said *E. C.* against the said *E. B.* in his life-time; which said goods and chattels the said *J. B.* afterwards and before the coming of that writ to the same sheriffs had wasted, and the money thence received to his own proper use had converted and disposed, as by a certain inquisition on the oath of good and lawful men of their bailiwick before them by virtue of the writ aforesaid in this behalf taken, and to the writ aforesaid annexed, appeared to the same sheriffs: And the said sheriffs farther returned, that the said *J. B.* hath nothing in their bailiwick where or by which they can give him notice, neither is he found in the same; and he doth not come; therefore as before the sheriffs are commanded, that they take the said *J. B.* if he shall be found in their bailiwick, and him safely keep, so that they may have his body before the Lord the King at *Westminster* on day next after to satisfy the said *E. C.* the said *J. B.* 10 s. and that by good, &c. they give notice to the said *J. B.* that he be before the Lord the King at *Westminster* on the said day next after to shew why the said *E. C.* ought not to have his execution against him for the debt and damages aforesaid against the said *E. B.* in his life-time by the said *E. C.* recovered, of the proper goods and chattels of him the said *J. B.* if, &c. and farther, &c. The same day is given to the said *E. C.* there, &c. On which day before the Lord the King at *Westminster* comes the said *E. C.* in his proper person; and the said sheriffs return as before, that the said *J. B.* hath nothing in their bailiwick where or by which they can give him notice, neither is he found in the same: And the said *J. B.* on the same day being solemnly called by *J. L.* his attorney likewise comes; whereupon the said *E. C.* prays his execution against the said *J. B.* for the debt and damages aforesaid by him the said *E. C.* against the said *E. B.* in his life-time recovered of the proper goods and chattels of him the said *J. B.* to be adjudged to him, &c.

Return, that the defendant is not found, and hath wasted.

A ca. fa. and sci. fac. awarded.

Defendant appears.

Execution prayed.

And the said *J.* in his proper person comes and defends the force and injury when, &c. Plea, fully administred. and says, that the said *E.* ought not to have his execution against him for the debt and those damages, because he says, that he the same *J. B.* on the day of the issuing of the said writ of *scire facias* had fully administred all the goods and chattels which belonged to the said *E. B.* at the time of his death, which came to the hands of him the said *J. B.* to be administred, to wit, at *London* aforesaid in the parish of *St. Mary le Bow* in the ward of *Cheape*, and that he hath not, nor on the day of the issuing of the said writ of *scire facias* had, any goods or chattels which belonged to the said *E. B.* at the time of his death in his hands to be administred; without that, that the said *J. B.* hath wasted, sold, cloined, or to his own proper use converted or disposed any goods or chattels which belonged to the said *E. B.* at the time of his death, in manner and form as by the said return of the said writ of *scire facias* and the inquisition aforesaid thereon taken is above supposed: And this he is ready to verify: Wherefore he prays judgment if the said *E. C.* ought to have execution against him for the debt and those damages, &c.

Traverse of the devastavit.

And

Issue on the
traverse.

And the said *E. B.* says, that he by any thing by the said *J. B.* above in pleading al-
ledged, ought not to be precluded from having his execution against him the said *J.* for
the debt and those damages of the proper goods and chattels of him the said *J.* because
he says that the said *J. B.* hath wasted, sold, eloined, and to his own proper use converted
and disposed the goods and chattels which belonged to the said *E. B.* at the time of his
death, to the value of the debt and damages aforesaid, recovered by the said *E. C.* against
the said *E. B.* in his life-time, in manner and form as by the said return of the said writ of
scire facias and the inquisition aforesaid thereon taken is above supposed, to wit, at *London*
aforesaid in the parish and ward aforesaid: And this he prays may be inquired of by the
country: And the said *J. B.* likewise: Therefore the sheriffs are commanded that they
cause to come before the Lord the King at *Westminster* on day next after twelve,
Et c. by whom, *Et c.* and who neither, *Et c.* to recognize, *Et c.* because as well, *Et c.* The
same day is given to the parties aforesaid there, *Et c.*

Venue award-
ed.

Subpoena.

Subpoena in
case in *London*.

WILLIAM, *Et c.* To *J. B.* (the witnesses names) greeting: We command and
strictly injoin you and every of you, that all and every business and excuse
whatever ceasing, you and every of you be in your proper persons before our
trusty and beloved *John Holt*, Knt. our chief justice assigned to hold pleas in our court
before us, at *Guildhall, London*, on the 29th day of *January* next ensuing, there to
testify all and every those things which you or any of you shall know, in a certain action in
our court before us now depending undetermined, between *John G.* plaintiff, and *Richard*
W. defendant, in a plea of trespass on the case on that day by a jury of the country to be
tried; and this do you, nor any of you, by no means omit, under the penalty on every of
you of 100*l.* Witness *J. Holt*, Knt. at *Westminster* the 28th day of *November* in the 11th
year of our reign.

Holt. Coleman.

The like a-
gainst an ad-
ministratrix in
London.

WILLIAM, *Et c.* greeting: We command and strictly injoin you and every of
you, that all and every business and excuse whatever ceasing, you and every of you
be in your proper persons before our trusty and beloved *John Holt*, Knt. our chief justice
assigned to hold pleas in our court before us, at *Guildhall, London*, on *Thursday* the 4th day
of *June* next ensuing, at 8 o'clock in the forenoon, there to testify all and singular those
things which you or any of you shall know, in a certain action in our court before us now
depending undetermined, and there then to be tried between *R. W.* plaintiff, and *B. H.* and
Grace his wife, administratrix of the goods and chattels, rights and credits of *W. L.* de-
ceased, who died intestate, defendants in a plea of trespass on the case; and this do you,
nor any of you, by no means omit, under the penalty on every of you of 100*l.* Witness
J. Holt, Et c.

William, &c. To J. C. Gent. greeting: We command and strictly injoin you, that in trespass in all and every business and excuse whatever ceasing, you be in your proper person ^{Middlesex.} before our trusty and beloved J. Holt, Knt. our chief justice assigned to hold pleas in our court before us at *Westminster* in the great hall of pleas there, on the 7th day of *July* next ensuing, to testify all and singular those things which you shall know in a certain action in our court before us now depending undetermined, between J. R. plaintiff, and R. H. and R. D. defendants, in a plea of trespass on that day by a jury of the country to be tried; and this in no wise omit, under the penalty of 100 l. Witness J. Holt, Knt. at *Westminster* 20th day of *June* in the 13th year of our reign.

Holt. Coleman.

William, &c. To J. H. J. R. A. A. and S. G. greeting: We command you and every ^{Subpoena on a writ of inquiry in covenant.} of you, that all and every business and excuse whatever ceasing, you and every of you be in your proper persons before Thomas A. Esq; sheriff of the county of *Sussex*, or his under-sheriff, on *Monday* the 23d day of *October* next ensuing, at the inn of John T. called the *Star Inn* in *Lewes* in the county aforesaid, to testify all and singular those things according to your knowledge and judgment which you or any of you shall know in a certain action in our court before us now depending between E. R. plaintiff, and H. H. defendant, in a plea of breach of covenant; in which said plea our certain writ of inquiry of damages to our same sheriff of *Sussex* by us out of our court before us sent and directed, is before the same sheriff in form of law to be then and there executed; and this do you, nor any of you, by no means omit, under the penalty of 100 l. Witness, &c.

By virtue of a writ of *subpoena* to you directed and herewith shewn unto you, you are The ticket. personally to be and appear before Thomas A. Esq; sheriff of the county of *Sussex*, or his under-sheriff, on *Friday* the 11th day of this instant *October*, at two of the clock in the afternoon, at the house of Mr. John T. commonly called the *Star Inn* in *Lewes*, then and there to testify the truth, according to your knowledge, upon a writ of inquiry of damages to be then and there executed in a certain cause now depending between E. R. plaintiff, and H. H. defendant, in a plea of covenant broken on the part of the plaintiff; and this you are not to omit, upon pain of 100 l. Dated the second of *October* in the twelfth year of the reign of our sovereign Lord William the Third, by the grace of God, &c. Annoq; Dom' 1700.

William, &c. To P. H. Esq; and J. B. Gent. greeting: We command and strictly ^{Subpoena in case in Mid-} injoin you and each of you, that all and every business and excuse whatever ceasing, you and each of you be in your proper persons before our trusty and beloved John Holt, Knt. our chief justice assigned to hold pleas in our court before us at *Westminster* in the great hall of pleas there, on *Friday* the 15th day of *May* next ensuing, to testify all and singular those things which you or either of you shall know in a certain action in our court before us at *Westminster* now depending undetermined, between E. E. doctor of laws, plaintiff, and G. P. Gent. defendant, in a plea of trespass on the case, and by a jury of the country then and there to be tried; and this do you, nor either of you, by no means omit, under the penalty on each of you of 100 l. Witness J. Holt, Knt. at *Westminster* 12th day of *February* in the 13th year of our reign. ^{dissex sent to two witnesses in Ireland.}

Holt. Coleman.

At the assises
in trespass.

William, &c. naming the witnesses, (you can put but four in one writ) greeting: We command and strictly injoin you and every of you, that all and every business and excuse whatever ceasing, you and every of you be in your proper persons before our justices assigned to take assises in the county of *Sussex* on *Wednesday* the 12th day of *March* next ensuing at *East Grinstead* in the county aforesaid, to testify all and singular those things which you or any of you shall know in a certain cause in our court before us now depending undetermined between *William N.* plaintiff, and *Francis T.* defendant, in a plea of trespass and assault, and by a jury of the country then and there to be tried; and this do you, nor any of you, in no wise omit, under the penalty on every of you of 100*l.* Witness, &c.

Subpoena in an
assise.

William, &c. To *S. D. &c.* greeting: We command you and every of you, that all and every business and excuse ceasing, you and every of you be in your proper persons before our justices assigned to take assises in the county of *Hereford* on *Saturday* the 14th day of *March* next ensuing, there to testify the truth of your knowledge in a certain assise of *novel disseisin*, then to be taken between *Gilbert H.* demandant, and *W. D.* tenant of the freehold in *Hereford*; and this do you, nor any of you, by no means omit, under the penalty of 100*l.* Witness, &c.

Summonire facias.

A *summonire
facias* against
a member of
parliament.

ANNE, &c. To the sheriff of *Berks*, greeting: We command you, that you summon *John S. Bart.* having the privilege of parliament, that he be before us at *Westminster* on _____ day next after _____ to answer to *William C.* in a plea of trespass on the case, as he can reasonably shew, that he ought to answer therein; and have there this writ. Witness *J. Holt*, Knt. at *Westminster* the third day of *May* in the third year of our reign.

Holt. Coleman.

Supersedeas.

Supersedeas.

A NNE, &c. To the sheriff of *Middlesex*, greeting: Whereas we lately commanded A *supersedeas* you by our writ, that you should attach *Josias T.* if he should be found in your to an attach-
bailiwick, and him safely keep, so that you might have his body before us at *West-* ment of privi-
minster on Monday next after three weeks of *St. Michael* last past, to answer to *Richard A.* lege by a clerk
Gent. being one of the clerks of *Rowland H. Esq;* and *Edward F. Esq;* chief clerk in our of K. B.
court before us, according to the liberty and privilege for such chief clerk and his clerks
for time immemorial used and approved in the same; and because the same *Josias T.* hath
come into our court before us, and found sufficient bail to answer to the said *Richard* in the
plea aforesaid, and to satisfy the said *Richard*, if it shall happen that he the said *Josias* shall
be condemned in any action at the suit of the said *Richard*: Therefore we command you,
that you do intirely supersede from further taking the said *Josias*, attaching, imprisoning,
or in any wise molesting him on that account; and if you have taken and detain him in
prison on that account and no other, then without delay cause him the said *Josias* to be de-
livered out of the prison wherein he is so detained at your peril. Witness *T. Parker, Knt.*
at *Westminster* the 24th day of *November* in the ninth year of our reign.

Holt. Ventris.

A NNE, by the grace of God, of *Great Britain, France and Ireland* Queen, defender A *supersedeas*
of the faith, &c. To the marshal of our *Marshalsea* before us, greeting: Whereas to the marshal
Henry B. the younger, on the 10th day of *December* in the year of the Lord 1713. was of K. B. where
by *Robert E. Knt.* one of our justices assigned to hold pleas in our court before us, com- the defendant
mitted to our prison under your custody by virtue of our writ of *babeas corpus* issuing out by *babeas cor-*
of our said court, and directed to the mayor, aldermen and sheriffs of the city of *London*, was brought
and by the return thereof was charged by virtue of a plaint levied against him the said plaintiff not
Henry in *London* at the suit of *John T.* in a plea of trespass on the case, to the damage of declaring in
500*l.* and the same *Henry* in our prison under your custody by virtue of the commitment was non-suited.
aforesaid hath hitherto remained, without any prosecution by the said *John T.* against him The defen-
the said *Henry B.* on the commitment aforesaid; because nevertheless the said *Henry* hath dant, on filing
come into our court before us at *Westminster*, and put in common bail at the suit of the common bail,
said *John*, according to the custom of our court aforesaid, to answer to the said *John* in was dischar-
the plea aforesaid: Therefore we command you, that you intirely supersede from taking ged.
the said *Henry B.* attaching, imprisoning, or in any wise molesting him on that account;
and if the said *Henry* is detained in your custody on that account and no other, then with-
out delay cause him to be delivered out of your prison wherein he is so detained at your
peril. Witness *T. Parker, Knt.* at *Westminster* the 16th day of *June* in the 13th year of
our reign.

William,

A *superfedeas* because the plaintiff did not declare within two terms.

William, &c. To the sheriff of *Stafford*, greeting: Whereas we lately commanded you by our writ, that you should take *Joseph H.* if he should be found in your bailiwick, and safely keep him, so that you might have his body before us at *Westminster* on *Tuesday* next after 15 days of *St. Martin* last past, to answer to *Francis B. Gent.* in a plea of trespass, and also to the bill of him the said *Francis* against him the said *Joseph* for 120*l.* debt, according to the custom of our court before us to be exhibited: And because the same *Francis* hath not declared against him the said *Joseph* within two terms, whereby the same *Joseph* hath come into our same court before us, and put in common bail at the suit of the said *Francis* in the plea aforesaid, therefore we command you, that from farther taking the said *Joseph*, attaching or imprisoning, or in any wise molesting him on that account, at the suit of the said *Francis*, you intirely supersede; and if you have taken and detain him in prison on that account, and no other, then cause the said *Joseph* without delay to be delivered out of the prison wherein he is so detained, at your peril. Witness *J. Holt*, Knt. at *Westminster*, &c.

A *superfedeas* on the defendant's filing common bail by order of a judge.

ANNE, &c. To the sheriff of *Middlesex*, greeting: Whereas you was lately commanded, that you should take *Martha F.* if, &c. so that you might have her body before us at *Westminster* on *Monday* next after the Octave of *St. Hillary*, to answer to *J. M. William A.* and *S. A.* in a plea of trespass, and also to the bill of them the said *J. M. W. A.* and *S. A.* for 500*l.* upon promise, according to the custom of our court before us to be exhibited: And because the same *Martha* hath come into our court before us, and put in common bail at the suit of the said *James, William* and *Samuel*, in the plea and to the bill aforesaid, therefore we command you, that from taking the said *Martha F.* attaching, imprisoning, or in any wise molesting her on that account, you intirely supersede; and if you have taken and detain her in prison on that account, and no other, then cause her the said *Martha* to be without delay delivered out of the prison wherein she is so detained, at your peril. Witness *J. Holt*, Knt. at *Westminster*, &c.

A *superfedeas* to discharge the defendant upon his having procured good bail.

ANNE, &c. To the marshal of our *Marshalsey* before us, greeting: Whereas *Peter Q.* of *B.* was lately committed to our prison under your custody for want of good bail, at the suit of *Simeon G.* in a plea of trespass on the case: And because the same *Peter* hath come into our court before us and found sufficient bail to answer to the said *Simeon* in the plea aforesaid, and to satisfy the said *Simeon*, if it shall happen that he the said *Peter* shall be condemned in any action at the suit of the said *Simeon*; therefore we command you, that from farther taking the said *Peter*, attaching, imprisoning, or in any wise molesting him on that account, you intirely supersede; and if you have taken him on that account, and no other, then cause him the said *Peter* to be without delay delivered from the prison wherein he is so detained, if he be detained on that account, and no other, at your peril. Witness *J. Holt*, Knt. at *Westminster* 23d day of *January* in the fifth year of our reign.

Otherwise.

William, &c. To the sheriff of *Middlesex*, greeting: Whereas we lately commanded you by our bill, that you should take *Thomas H.* if, &c. and him safely, &c. so that you might have his body before us at *Westminster* on _____ day next after _____ last past, to answer to *Bryan B.* in a plea of trespass, and also to the bill of him the said *Bryan* against him the said *Thomas* for 20*l.* upon promise, according to the custom of our court before us to be exhibited: And because the same *B. B.* hath not declared against him the said *Thomas H.* within two terms, whereby the said *Thomas H.* hath come into our same court before us, and put in common bail, at the suit of the said *Bryan* in the plea aforesaid; therefore we command you, that from farther taking the said *Thomas H.* attaching and imprisoning, or in any wise molesting him on that account, you wholly supersede; and if you have taken and detain him in prison on that account, and no other, then cause him the said *T. H.* to be without delay delivered out of the prison wherein he is so detained, at your peril. Witness, &c.

In order to be intitled to this writ, you must get a certificate that there is no declaration delivered against the prisoner in his custody.

Then get the like from the clerk of the declarations at the K. B. office, that there is no declaration filed.

Then you make out a common bail-piece, with this addition, Because the plaintiff hath not declared within two terms, let there be a writ of *superfedeas*.

Then you file the certificate, and sign the writ.

Upon which the sheriff makes out the following discharge to the keeper of the prison.

Middlesex, By virtue of his Majesty's writ of *superfedeas* to me directed, I command you to discharge out of your custody the body of *Thomas H.* of and from all actions and executions against him in my office: This is your warrant.

Dated July 12, 1718.

R. B. and H. F.

William, &c. To the warden of our prison of the *Fleet*, greeting: Whereas *A. V.* was *A superfedeas* committed to the prison of the *Fleet* aforesaid by *George T. Knt.* chief justice of our court of the Bench at *Westminster*, by virtue of our writ of *babeas corpus cum causa*, directed to the bailiff of the liberty of the dean and chapter of the collegiate church of *St. Peter Westminster* in the county of *Middlesex*, and by the return thereof was charged, by virtue of a certain warrant from the sheriff of the county of *Middlesex* on a bill of *Middlesex* returnable before us at *Westminster* on *Friday* next after three weeks of *St. Michael*, to answer to *Z. W.* clerk in a plea of trespass, and also to the bill of him the said *Z.* against him the said *A.* for 185 *l.* debt, according to the custom of our court before us to be exhibited; and because the said *A.* hath come into our court before us at *Westminster*, and put in common bail at the suit of the said *Z.* in the plea aforesaid; Therefore we command you, that from taking the said *A.* attaching, imprisoning, or in any wise molesting him on that account you altogether supersede, and if you detain him the said *A.* in your custody on that account, and no other, then him from your prison in which he is so detained without delay cause to be delivered at your peril. Witness, &c.

William, &c. To our constable of our castle of *Dover*, or his lieutenant or deputy, greeting: Because in the record and proceedings, and also in the pronouncing of an outlawry against *E. S.* late of *D.* in your county, *Gent.* at the suit of *R. Earl of Montague* in a plea of trespass on the case, in our hustings of *London* pronounced, and before us wheresoever, &c. lately returned and filed, a manifest error hath happened, to the great damage of him the said *E. S.* as by the inspection of the record and proceedings thereof being in our court before us appears to us on record: And we, for divers errors in the record and proceedings aforesaid in our court before us found, the outlawry aforesaid have reversed and intirely annulled; and it is further considered, that the said *E. S.* to the common law of our kingdom of *England*, and to all things which he by reason of the outlawry aforesaid hath lost be restored: Therefore we command you and every of you, that from taking the body of the said *E. S.* or seising into our hands any goods or chattels of the same *E.* by reason of the outlawry aforesaid you wholly supersede; and if he in our prison under your custody on that account, and no other, is detained, then him from the prison wherein he is so detained without delay cause to be delivered at your peril: We likewise command you, that if any goods or chattels of the same *E.* into our hands by reason of the outlawry aforesaid; and no other, you have taken or seised, or any of you have taken or seised, then them without delay to the same *E.* cause to be delivered also, at your peril. Witness, &c.

*A superfedas
to a ca. fa.
because it is
fued errone-
ously.*

William, &c. To the sheriff of *Middlesex*, greeting: Whereas we lately commanded you by our writ, that you should take *Richard C. Esq;* if he should be found in your bailiwick, and him safely keep, so that you might have his body before us from the day of the Holy *Trinity* in three weeks, wheresoever, &c. to satisfy *John L. 33 l. 8 s. 3 d.* for his damages which he sustained as well by reason of a certain trespass and ejectment to the same *J.* by the said *R.* in our kingdom of *Ireland* lately done, as for his costs and charges by him about his suit in that behalf there expended, whereof he is convicted in our court of the Common Bench in our kingdom of *Ireland* aforesaid, as it appears to us on record; and also *18 l. 16 s.* sterling for his costs and damages which he sustained by reason of the delay of execution of the judgment aforesaid, by pretence of the prosecution of our certain writ of error by the said *R.* upon the premisses in our court before us in our said kingdom of *Ireland* prosecuted, and whereon the judgment aforesaid in our same court before us in *Ireland* was afterwards affirmed, as it appears also to us on record; and likewise *44 l.* to the same *J.* by our court before us now here in our kingdom of *England*, according to the form of the statute in such case made and provided, adjudged for his farther costs, charges and damages which he sustained by reason of the delay of execution of the judgment aforesaid, on the pretence of the prosecution of our other certain writ of error in our court before us in *England*, whereon the judgment aforesaid in our same court was afterwards affirmed, as by the inspection of the record and proceedings thereof, which out of our court of the Common Bench in the kingdom of *Ireland* aforesaid into our court before us in the same kingdom by virtue of our writ of error we caused to be brought, and which out of our court before us in *Ireland* aforesaid into our court before us in our kingdom of *England* by virtue of our like other writ of error we likewise caused to be brought; and which said record and proceedings out of our same court before us into the then present parliament we likewise caused to be brought; and the judgment aforesaid thereof was there affirmed, and which by the court of parliament aforesaid before us, wheresoever, &c. are remitted, appears to us on record: Nevertheless because that writ out of our said court before us unjustly, improvidently and erroneously against the said *R. C.* issued; therefore we command you, that from farther taking, arresting, imprisoning, or in any wise molesting the said *R.* on the account aforesaid, you intirely superfede; and if him on that account, and no other, you have taken and in prison detain, then him out of the prison wherein he is so detained without delay cause to be delivered, at your peril. Witness, &c.

Ventre.

Venire.

GEORGE, &c. To the sh:riff of *Middlesex*, greeting: We command you, that *Venire* in a you cause to come before us at *Westminster* on *Wednesday* next after 15 days of *scire facias* in *debt* in *Mid-*
Easter 12 free and lawful men of the body of your county, every of whom hath *alefen*.
 10 l. of land, tenements or rents by the year at least, by whom the truth of the fact may be the better known, and who are neither to *Grace B.* the surviving executrix of *James B. Esq;* deceased, plaintiff, nor to *George B. Esq;* defendant, in any wise related, to make a certain jury of the country between the parties aforesaid in a plea of debt, whereof a *scire facias*, &c. because as well as the said *Grace B.* as the said *George B.* between whom the dispute thereof is, have put themselves thereof on that jury; And have there then the names of that jury, and this writ. Witness *J. Pratt*, Knt. at *Westminster* 12th day of *February* in the 6th year of our reign.

Ventris.

ANNE, &c. To the sheriffs of *London*, greeting: We command you, that you cause *Venire* in a to come before us at *Westminster* on *Friday* next after three weeks of the Holy *Trinity* *London*,
 12 free and lawful men of the neighbourhood of *St. Mary le Bow* in the ward of *Cheape*, every of whom hath 10 l. of land, tenements or rent by the year at the least, by whom the truth of the fact may be the better known, and who are neither to the master and keepers, or wardens and commonalty of the mystery or art of stationers of the city of *London*, plaintiffs, nor to *Richard R.* citizen and stationer of *London*, defendant, in any wise related, to make a certain jury of the country between the parties aforesaid in a plea of debt, because as well the same *Richard* as the said master and keepers, or wardens and commonalty of the mystery or art of stationers of the city of *London*, between whom the dispute thereof is, have put themselves thereof on that jury; And have there then the names of that jury, and this writ. Witness *J. Holt*, Knt. &c.

William, &c. To the sheriff of *Middlesex*, greeting: We command you, that you *Venire* in *Mid-*
 cause to come before us at *Westminster* on *Monday* next after three weeks of *St. Michael* in case,
Michael 12 free and lawful men of the body of your county, each of whom hath 10 l. of land, tenements or rent by the year at least, by whom the truth of the fact may be the better known, and who neither to *T. H.* the plaintiff, nor to *D. D.* otherwise *D.* the defendant, are in any wise related, to make a certain jury of the country between the parties aforesaid in a plea of trespass on the case, because as well the same *D. D.* as the said *T. H.* between whom therein the dispute is, have put themselves thereof on that jury; And have there the names of that jury, and this writ. Witness, &c.

William;

Venire at the
office in debt.

William, &c. To the sheriff of North^hton, greeting: We command you that you cause to come before us at Westminster on Wednesday next after the Octave of the Purification of the Blessed Mary, 12 free and lawful men of the body of your county, of whom each hath 10*l.* of land, tenements or rent by the year at least, by whom the truth of the fact may be the better known; and who neither to Ellis F. executor of the last will and testament of William F. deceased, plaintiff, nor to Richard B. otherwise called, &c. defendant, are in any wise related, to make a certain jury of the country between the parties aforesaid in a plea of debt, because as well the said Richard B. as the said Ellis F. between whom therein the dispute is, have put themselves thereof on that jury; And have there then the names of that jury, and this writ. Witness, &c.

By proviso.

If by proviso, we say in the *distringas*, but not in the *venire*, former defaults, provided always that if two writs thereof shall come to you, then one only of them execute and return; And have there then the names of that jury, and this writ. Witness J. Holt, &c.

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